



AGENDA

Thursday, September 21, 2023: 6:00 PM

Planning Board

Douglass Community Center: 1185 W. Pennsylvania Ave

1. CALL TO ORDER

2. APPROVAL OF MINUTES

3. PUBLIC HEARINGS

a. OA-04-23: Amendments to Unified Development Ordinance

The Town of Southern Pines Planning Department is proposing to amend the Unified Development Ordinance (UDO) with text amendments related to three topics. The three topics are removing an incomplete sentence in the FRR zoning district, clarifying violation notification requirements and enforcement alternatives based on state statutes, and revising some subdivision platting requirements in Appendix A.

4. PRELIMINARY FORUM

a. SU-01-23: Special Use Permit to expand authorized land uses in Mill Creek Mixed-Use Development

Mr. Bob Koontz of Koontz Jones Design, on behalf of Mill Creek Partners, LLC, has submitted a Special Use Permit major amendment application pursuant to §2.21.12(A) of the Town of Southern Pines Unified Development Ordinance (UDO) to expand the authorized land uses in the General Business conditional zoning district (GB-CD) portion of the Mill Creek development.

5. UNFINISHED BUSINESS

6. NEW BUSINESS

7. PUBLIC COMMENTS

8. ADJOURNMENT

Agenda Item

To: Planning Board

From: BJ Grieve, Planning Director

Subject: OA-04-23: Code Compliance and Other Miscellaneous Text Amendments to the Unified Development Ordinance (UDO).

Date: September 21, 2023

I. SUMMARY OF AMENDMENT REQUEST:

The Town of Southern Pines Planning Department is proposing to amend the Unified Development Ordinance (UDO) with text amendments related to three topics. The planning staff are requesting Planning Board and Town Council review and approve the proposed amendments per UDO §2.17. The proposed amendments are as follows, listed by topic, with reference to applicable section(s) of the UDO proposed for amendment and with brief explanations for each proposed amendment:

1. Delete the incomplete sentence (ending with “sud”) at the end of UDO §3.5.13(C) because planning staff cannot figure out how the sentence is actually supposed to end. What was “sud” supposed to mean? Planning staff have reviewed the UDO as it existed on March 27, 2012 (prior to a significant revision) and the incomplete sentence does not exist in that document. Planning staff have also reviewed the current UDO as it existed when first adopted on October 8, 2013 and the incomplete sentence is present in that document. Planning staff have talked with consultants who worked on the revisions to the UDO in 2013 and also reviewed file #OA-03-13 and have not been able to identify the intended language.
2. Amend and reorganize various portions of UDO §8.18 (Violations) and §8.19 (Enforcement) to be clearer and more consistent with current state statute, case law and best practices for municipal zoning enforcement. The proposed amendments are the result of consulting work completed by Parker Poe Adams & Bernstein, LLP to review the town’s zoning compliance and enforcement provisions and recommend improvements. The proposed amendments will clarify the violation notification process and reorganize and clarify the options available to the town for enforcement when voluntary compliance efforts are unsuccessful.
3. Amend UDO Appendix A, Major Subdivision Final Plat Application Checklist and Minor Subdivision Application Checklist, to remove the requirement that surveyor’s and owner’s certificates be notarized, clarify the requirement to depict floodplains (as applicable) on final plats, clarify when NCDOT certifications are, required and make the Certificate of Accuracy language consistent with state statute. The amendment to remove the notary requirement for surveyor’s and owner’s certificates comes at the

request of the Moore County Register of Deeds, Mr. William Britton. A letter from Mr. Britton is attached to this staff report. The remaining amendments come from the experience of planning staff when reviewing subdivision plats and are intended to improve the clarity of platting requirements.

The specific text of each proposed amendment may be found in the attachments to this staff report.

II. APPLICATION REVIEW:

A. Review Process:

Applications for text amendments are reviewed pursuant to UDO §2.17.

B. Criteria for Review:

When reviewing an application for amendments to the text of the UDO, the hearing bodies (Planning Board followed by Town Council) shall consider and be guided by the following criteria, as set forth in UDO §2.17.10:

2.17.10. Criteria for UDO Text Amendments

In its review of an application for a UDO text amendment, the Hearing Bodies shall consider the following criteria. No single factor is controlling; instead, each must be weighed in relation to the other standards.

(A) Consistency. *The text amendment shall be consistent with the adopted Comprehensive Plan.*

(B) Health, Safety, and Welfare. *The amending ordinance must bear a substantial relationship to the public health, safety, or general welfare, or protect and preserve historical cultural places and areas.*

(C) Public Policy. *Certain public policies in favor of the text amendment may be considered. Examples include a need for affordable housing, economic development, mixed-use development, or sustainable environmental features, which are consistent with the Town, area, neighborhood, or specific plans.*

(D) Other Factors. *The Hearing Body may consider any other factors relevant to a text amendment application under state law.*

(E) Impacts. *The Hearing Bodies shall not regard as controlling any advantages or disadvantages to the individual requesting the change, but shall consider the impact of the proposed amendment on the public at large.*

C. Staff Comments:

All of the proposed amendments to the UDO are depicted using ~~strikeout~~ for proposed deletions and underline for proposed additions on a copy of the UDO that is attached to this staff report. Planning staff is available during regular business hours prior to the Planning Board public hearing on September 21, 2023 for questions and/or to discuss any of the proposed amendments. Each topic will be

presented to the Planning Board and public at the September 21, 2023 Planning Board Regular meeting.

The Planning Board's primary role when reviewing proposed amendments to the UDO is to advise and comment on whether the proposed amendment is consistent with the Comprehensive Plan. In this case, the proposed amendments are to improve the clarity and legal defensibility of the UDO and are not substantial Comprehensive Plan implementation initiatives related to physical development of the community. However, it is the professional opinion of planning staff that continuously improving the clarity and legal defensibility of local zoning regulations does achieve some of the broad objectives set forth in the new 2040 Comprehensive Plan (Comprehensive Plan) that are related to efficiently providing town services. For example, regulations that are not consistent with frequently-changing state statutes and North Carolina case law leave the town at risk of costly litigation. Land use regulations that are unclear cause misunderstandings that result in costly mistakes and delays. Unclear and/or outdated regulations consume time and money of both public officials and the public, so clarity and accuracy in regulations reduces the cost of public service delivery.

D. Outside Agency Comments:

A request for comment was emailed to representatives from the Regional Land Use Advisory Commission (RLUAC), North Carolina Department of Transportation (NCDOT), U.S. Fish and Wildlife Service, Moore County Airport and representatives of the Town of Southern Pines on September 11, 2023.

As of the completion of the staff report on September 14, 2023 responses have been received from RLUAC and the Southern Pines Utility Superintendent stating that they have no comment on the proposed amendments. Any responses received from other agencies following completion of this staff report but prior to the public hearings will be provided verbally at the hearings.

III. ATTACHMENTS:

1. Draft Planning Board Resolution to Adopt a Written Recommendation
2. Sections of the current UDO with proposed amendments, using ~~strikeout~~ for proposed deletions and underline for proposed additions.
3. Letter from Moore County Register of Deeds William Britton, August 22, 2023.

IV. PLANNING BOARD ACTION:

The Planning Board shall consider the criteria for text amendments found in UDO §2.17.10, including consistency with the Comprehensive. Per North Carolina General Statute 160D-604(d), prior to consideration of the proposed text amendments by the Town Council, the Planning Board shall advise and comment on whether the proposed amendments are consistent with the Comprehensive Plan. The Planning Board shall provide a written recommendation to the Town Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendments by the Town Council.

To assist the Planning Board in performing this task, Town staff has prepared the following draft motions for the Planning Board's consideration, possible modification as necessary, and adoption:

I move that after reviewing the proposed text amendments to the UDO and considering the criteria for approval of text amendments to the UDO found in UDO §2.17.10:

1. The proposed amendments are consistent with the Comprehensive Plan for the reasons set forth in Attachment A of staff report OA-04-23;
2. The proposed amendments are consistent with the Comprehensive Plan for the reasons set forth in Attachment A of staff report OA-04-23 and as revised by the Planning Board as follows;
3. The proposed amendments are inconsistent with the Comprehensive Plan for the reasons set forth in Attachment A of staff report OA-04-23 as revised by the Planning Board as follows;

I further move that the following other matters were considered by the Planning Board and shall be added to Attachment A by Town staff as part of the Planning Board's written recommendation to the Town Council:

- 1.

And, therefore, I move to:

1. Recommend approval of OA-04-23 to the Town Council.
2. Recommend denial of OA-04-23 to the Town Council.



ATTACHMENT A

PLANNING BOARD RESOLUTION TO ADOPT A WRITTEN RECOMMENDATION FOR ORDINANCE AMENDMENT APPLICATION OA-04-23

WHEREAS, Section 160D-701 of the North Carolina General Statutes specifies that zoning regulations shall be made in accordance with a comprehensive plan and shall be designed to protect the public health, safety and general welfare; and

WHEREAS, Section 160D-604 of the North Carolina General Statutes specifies that the Planning Board shall, with any ordinance amendment or zoning map amendment, advise and comment on whether the proposed action is consistent with the adopted Comprehensive Plan and on other matters as deemed appropriate by the Planning Board, and that the Planning Board shall provide this in the form of a written recommendation to the Town Council; and

WHEREAS, the Planning Board conducted a duly-noticed public hearing during a meeting held on September 21, 2023 to listen to public comments, ask questions of the Town's Planning staff and to consider ordinance amendment application OA-04-23.

NOW, THEREFORE BE IT RESOLVED that the Planning Board finds and recommends to the Town Council that the revisions to the Unified Development Ordinance (UDO) that have been prepared by town staff are reasonable, in the public interest and are generally consistent with the Town of Southern Pines Comprehensive Plan (Comprehensive Plan).

The 2040 Comprehensive Plan identifies many ways to improve the efficiency of providing town services. Multiple policies identify and prioritize opportunities to achieve operational efficiencies that will save taxpayers money over the short- and long-term. To that end, the amendment to delete an incomplete sentence from UDO §3.5.14(C) provides more clarity for planning staff and members of the public when dealing with the FRR zoning district and this is certainly in the public interest to improve efficiency in public service delivery. The amendments to reorganize various portions of both UDO §8.18 (Violations) and §8.19 (Enforcement) to be clearer and more consistent with current state statute, case law, and best practices for municipal zoning enforcement are also in the public interest because greater clarity and legal defensibility in the process of enforcing local land use regulations results in more efficient and fair public service delivery. Finally, the amendments to clarify platting requirements and remove inefficient notary requirements will also reduce the cost of public service delivery by eliminating an unnecessary

gathering of signatures that are not needed and by making platting requirements clearer for those that use them.

Therefore, the proposed text amendments are reasonable and in the public interest and consistent with the CLRP.

ADOPTED this the 21st day of September, 2023.

Diane T. Westbrook, Chair

ATTEST:

Cindy Williams
Secretary to the Planning Board

Southern Pines Unified Development Ordinance

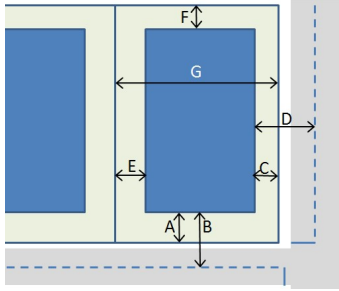
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- (2) Outdoor storage and display shall be screened in compliance with sections 5.12 and 5.13.

Dimensional and density standards are summarized in Exhibit 3-12. Section cross-references identify the location of additional dimensional standards. Additional district Development standards are established in chapter 4 of this UDO.

(D) District Development Standards

Exhibit 3-12: Summary of Development Standards

Design Element	Principal Structure Standards	Section Cross-Reference	Setback Illustration
Maximum Height	50'	4.2.1	 Letters match dimension in design element column
Minimum Front Setback from Right-of-Way (dimension A)	40'	4.2.2	
Minimum Front Setback from centerline (dimension B)	70'	4.2.2	
Minimum Side Setback, Exterior from Right-of-Way (dimension C)	15'	4.2.2	
Minimum Side Setback, Exterior from centerline (dimension D)	45'	4.2.2	
Minimum Side Setback, Interior (dimension E)	10'	4.2.2	
Minimum Rear Setback (dimension F)	20'	4.2.2	
Minimum Lot Width (dimension G)	No minimum	4.2.3	
Minimum Lot Size	No minimum	4.2.3	

3.5.13. FRR – Facilities, Resource and Recreation District

(A) Purpose

The **FRR** is intended for open space, public facilities and privately owned and recreation areas. Publicly owned land uses include governmental, recreational, education, natural resource and utility facilities. Privately owned land uses include golf resorts and related facilities, land trusts established to preserve natural resources, schools and recreational facilities that typically include substantial open space. The objectives of the FRR district are to

- (1) Provide land for publicly-owned governmental facilities and privately-owned natural and man-made resource and recreation areas; and

- (2) Preclude major residential, retail office, institutional, and industrial uses that typically provide limited open space.

(B) Authorized Uses

The uses authorized by section 3.7 of this UDO may be established in accordance with the provisions of this UDO, including, but not limited to the procedures established in chapter 2, the zoning district standards of this chapter, and the design standards of chapter 4.

(C) District Use Standards

Existing uses within the **FRR** district that are not authorized by right may be allowed to continue as non-conforming uses or allowed to achieve conforming status subject to issuance of a Special Use Permit. [The establishment of a new golf resort, the expansion of an existing golf resort or the modification of existing golf course to add resort facilities sud](#)

Commented [BG1]: Staff has researched the “old” UDO as it existed on March 27, 2012. The language here that is proposed to be removed does not appear to exist in the “old” UDO. Staff has also researched the “new” UDO as it was adopted on October 8, 2013 and this sentence ending nonsensically in “sud” has been in the “new” UDO since the original adoption. Staff has contacted the consultant that worked on the draft and he has no knowledge of how this sentence was intended to read. Staff has reviewed the UDO project file and can’t find any notes or drafts that may explain the original intent of this incomplete sentence. The current proposal is to simply remove this incomplete sentence unless someone during the public hearing process can present and argue in favor of language that should complete this sentence.

Amended

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- (I) Once a member is physically present at a meeting of the body, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been or has been allowed to withdraw from the meeting.
- (J) A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:
 - (1) If the member has a direct financial interest in the outcome of the matter at issue; or
 - (2) If the matter at issue involves the member's own official conduct; or
 - (3) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or
 - (4) If a member has such close personal ties to the Applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.
- (K) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.
- (L) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.
- (M) All members appointed to a body identified under this section shall, before entering their duties, qualify by taking an oath of office as required by G.S. 160A-61.
(Ord. #1919)

Amended

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PART III – COMPLIANCE AND ENFORCEMENT

8.18. VIOLATIONS

8.18.1. Inspection of Work in Progress

As the work pursuant to a permit progresses, the Planning Director or Town Engineer, as applicable, shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of this UDO and the terms of the permit. In exercising this power, the Planning Director has a right, upon presentation of proper credentials, to enter on any Premises within the territorial jurisdiction at any reasonable hour for the purpose of inspection or other enforcement action; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.
(Ord. #1919)

8.18.2. Complaints Regarding Violations

Whenever the Planning Director receives a written, ~~Signed~~-signed complaint alleging a violation of this UDO, he ~~or she~~ shall request the Code Enforcement Officer to assist with the investigation of the complaint, take whatever action is warranted and inform the complainant in writing what actions have been or will be taken.

8.18.3. Persons Liable

The owner, tenant or occupant of any Building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates or maintains any situation that is contrary to the requirements of this chapter may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

8.18.4. Procedures upon Discovery of Violations

- (A) If the Planning Director finds that any provision of this chapter is being violated, he ~~of~~-or she shall send a written notice to the holder of the

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Development Approval and owner of the property involved (if that person is not the holder of the Development Approval), indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Planning Director's discretion.

(Ord. #1919)

- (B) The final written notice (and the initial written notice may be the final notice) shall state what action the Planning Director intends to take if the violation is not corrected and shall advise that the Planning Director's decision or order may be appealed to the Board of Adjustment. ~~in~~ in accordance with [Section 2.23](#), any persons liable under Section 8.18.3 who have received a final written notice pursuant to this section may appeal in writing to the Board of Adjustment and the clerk within thirty (30) days following issuance of the final order. In the absence of an appeal, the order of the Planning Director shall be final.

(Ord. #1919)

- (C) Notwithstanding, the foregoing, in cases when delay would seriously threaten the effective enforcement of this chapter or pose a danger to the public health, safety or welfare, the Planning Director may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in this UDO, including but not limited to an action for an injunction or abatement as set out in Section 8.19.5.

8.18.5. Violations to Be Corrected

~~When the Planning Director finds violations of applicable state and local laws, it shall be his or her duty to notify the owner of the building of the violation. The owner persons liable~~ shall each immediately remedy the violations of law in the property ~~he or she owns~~ notified.

(Ord. #1919)

8.19. ENFORCEMENT

8.19.1. Stop Orders

Whenever a Building or part thereof is being constructed, reconstructed, altered or repaired in violation of this article, the Planning Director may order the work to be immediately stopped if the violation poses an imminent threat

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to life, safety and/or the environment; or where no permits have been issued prior to work commencing. The stop order shall be in writing and directed to holder of the Development Approval and owner of the property involved (if ~~the~~ the person is not the holder of the Development Approval). The stop order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed.

(Ord. #1919; Ord. #1959)

8.19.2. Revocation of Permits or Approvals

- (A) A Development Approval may be revoked by the Permit Issuing Authority (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this chapter or any additional requirements lawfully imposed by the Permit Issuing Authority.
- (B) Before a Development Approval may be revoked, the Development review and approval process required for issuance of the Development Approval shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.

(Ord. #1919)

- (C) A motion to revoke a permit shall include, in so far as practicable, a statement of the specific reasons or findings of fact that support the motion. The burden of presenting evidence sufficient to authorize the Permit Issuing Authority to conclude that a permit should be revoked for any of the reasons set forth in this section shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.
- (D) Before a Development Approval may be revoked, the Planning Director shall give the permit recipient ten (10) days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his or her right to obtain an informal hearing on the allegations. If the permit is revoked, the Planning Director shall provide to the permitted a written statement of the decision and the reasons therefore.

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(Ord. #1919)

- (E) No person may continue to make use of land or Buildings in the manner authorized by any Development Approval after such approval has been revoked in accordance with this section.

(Ord. #1919)

8.19.3. ~~Actions in Event of Failure to Take Corrective Action~~Penalties

~~(A) Any person found to be violating this UDO or failure to comply with any of its requirements including violations of any conditions, safeguards or standards established in connection with grants of approval shall be subject to fines and other civil penalties as allowed by law.~~

~~(Ord. #1959)~~

~~(B) Violations of the provisions of this chapter, or failure to comply with any of its requirements including violations of any conditions and safeguards established in connection with grants of variances or Special Use Permits shall be subject to a civil penalty of fifty (50) dollars per day for each day that the violation continues to exist.~~

~~(Ord. # 1716; Ord. #1919; Ord. #1959)~~

~~(C) If the offender fails to pay this civil penalty within ten (10) days after being notified of a violation, the penalty may be recovered by the Town in a civil action in the nature of debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation in accordance with this UDO and did not take an appeal to the Board of Adjustment within the prescribed time.~~

~~(Ord. #1919; Ord. #1959)~~

~~(D) This chapter may also be enforced by any appropriate equitable action. In addition to the remedies allowed by law, the regulations and standards contained in this UDO may be enforced through the issuance of a civil citation by the Planning Director or his designee.~~

~~(E) Any one, all or any combination of the foregoing penalties and remedies may be used to enforce this chapter.~~

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~~If the owner of a Building or property shall fail to take prompt corrective action, the Planning Director shall give him or her written notice, by certified or registered mail, to the owner's last known address or by personal service:~~

~~(A) That the Building or property is in violation of this UDO.~~

~~(B) That a hearing will be held before the Planning Director at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,~~

~~(C) That following the hearing, the Planning Director may issue such order to alter, vacate, or demolish the Building or structure as appropriate.~~

~~(Ord. #1919)~~

8.19.4. ~~Order to Take Corrective Action~~Separate Offences May Be Charged

~~Each day that any violation continues after notification by the Planning Director that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section. If, upon a hearing held pursuant to the notice prescribed above, the Planning Director shall find that the Building or Development is in violation of this UDO, he shall make an order in writing to the owner, requiring the owner to remedy the violations, within such period, not less than thirty (30) days, the Planning Director may prescribe; provided, that where the Planning Director finds that there is imminent danger to life or other property, he may order that corrective action be taken in such lesser period as may be feasible.~~

~~(Ord. # 1716)~~

8.19.5. ~~Appeal~~Injunctions and Order of Abatement

~~(A) When any person violates a UDO regulation that makes unlawful a condition existing upon or use made of real property or any rule or order adopted or issued, or any term, condition or provision of an approved development approval or permit, the Planning Director may either before or after the institution of any other action or proceeding authorized by this Ordinance, authorize the Town Attorney to institute a civil action in the name of the City for a mandatory or prohibitory injunction and order of~~

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abatement requiring correction of the unlawful condition upon or cessation of the unlawful use of the property, or threatened violation. When a violation of the Ordinance occurs, the Town may apply to the Moore County Superior Court for a mandatory or prohibitory injunction and order of abatement requiring correction of the unlawful condition upon or cessation of the unlawful use of the property.

(B) In addition to an injunction, the court may enter an order of abatement as a part of the judgment. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the Ordinance.

(C) If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, the defendant may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Moore County Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(D) An action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violation in specific articles of this Ordinance.

Any owner who has received an order to take corrective action may appeal in writing to the Board of Adjustment and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Planning Director shall be final. The Board of Adjustment shall hear appeals

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within a reasonable time and may affirm, modify and affirm, or revoke the order.
(Ord. #1919)

8.19.6. Penalties

(A) Any person found to be violating this UDO or failure to comply with any of its requirements including violations of any conditions, safeguards or standards established in connection with grants of approval shall be subject to fines and other civil penalties as allowed by law.
(Ord. #1959)

(B) Violations of the provisions of this chapter, or failure to comply with any of its requirements including violations of any conditions and safeguards established in connection with grants of variances or Special Use Permits shall be subject to a fine of fifty (50) dollars per day for each day that the violation continues to exist, or a maximum thirty (30) days imprisonment.
(Ord. # 1716; Ord. #1919; Ord. #1959)

(C) If the offender fails to pay this civil penalty within ten (10) days after being notified of a violation, the penalty may be recovered by the Town in a civil action in the nature of debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation in accordance with this UDO and did not take an appeal to the Board of Adjustment within the prescribed time.
(Ord. #1919; Ord. #1959)

(D) This chapter may also be enforced by any appropriate equitable action. In addition to the remedies allowed by law, the regulations and standards contained in this UDO may be enforced through the issuance of a civil citation by the Planning Director or his designee.

(E) Any one, all or any combination of the foregoing penalties and remedies may be used to enforce this chapter.

8.19.7. Separate Offences May Be Charged

Each day that any violation continues after notification by the Planning Director that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this section.

Amended

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8.20. JUDICIAL REVIEW

- (A) Every decision of the Town Council granting or denying a Special Use Permit and every final decision of the Planning Board shall be subject to review by the Superior Court of Moore County by proceedings in the nature of certiorari.
- (B) The petition for the writ of certiorari must be filed with the Moore County Clerk of Court within thirty (30) days after the later of the following occurrences:
 - (1) A written copy of the decision has been filed in the office of the planning department; and
 - (2) A written copy of the decision has been delivered, by personal service or certified mail, return receipt requested to the Applicant or appellate and every other aggrieved party who has filed a written request for such copy at the hearing of the case.
 - (3) A copy of the writ of certiorari shall be served upon the Town of Southern Pines.

MAJOR SUBDIVISION – FINAL PLAT APPLICATION CHECKLIST

Process Overview

Decision Making Body	Review	Recommend	Decision
Technical Review Committee	X		
Director		X	
<i>X = indicates required action</i>			

Submittal Requirements*

Please include the following information on all applications for a Major Subdivision – Final Plat. If any of the information or required materials is missing or incomplete, the application will not be processed.

- ☐ **PROOF OF OWNERSHIP** – Filed deed, vendor’s lien, act of donation or tax assessment with legal description.
- ☐ **FINAL PLAT** – Copies (1 full sized copy and 1 digital copy) drawn at a scale of 1" = 100' on sheets with maximum dimensions not exceeding 24 inches by 36 inches. If more than two sheets are required, an index sheet of the same dimensions shall be filed showing the entire subdivision on one sheet and the component areas shown on the other sheets. The plat shall contain the following information:
 - a. Name of the subdivision;
 - b. The name of the owner or owners, or subdividers;
 - c. Date, scale and north arrow, on each page. Each sheet of the plat shall indicate its page number in relation to the total number of sheets;
 - d. The correct legal description of the property being subdivided shall be shown on the Plat;
 - e. Accurate references to known or permanent monuments, giving the bearing and distance from said monuments and State Plane coordinates of at least two subdivision corners;
 - f. The location of all survey monuments and their descriptions;
 - g. All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision, lots, streets, alleys, easements and other areas for public or private use. Linear dimensions are to be given to the nearest 1/100th of a foot. The radii, arcs or chords, points of tangency and central angles for all curvilinear streets and radii for rounded corners;
 - h. The names, lines and right-of-way widths of all proposed streets with accurate dimensions in feet and hundredths of feet with angles to right-of-way lines and lot lines;
 - i. The location of the subdivision based on an accurate traverse giving angular and linear dimensions which shall mathematically close. Bearings and distances of all exterior boundary lines and along the center lines of streets shall be furnished;
 - j. Accurate location of all existing and recorded roads intersecting the boundaries of the tract;
 - k. The gross area, net area and lot area of the land being subdivided;
 - l. The boundary lines of all adjoining lands for a distance of 150 feet and showing (with dotted lines) the right-of-way lines, adjacent streets and alleys with their widths and names, and adjacent zoning districts;

m. Easements and easements for rights-of-way provided for public use, services or utilities, with figures showing their dimensions and listing uses that are being provided and any limitations on such easement;

n. Clearly numbered lots in sequence and blocks clearly lettered in sequence;

~~n-o.~~ The location of floodplain boundaries, as applicable;

~~o-p.~~ A statement dedicating all easements, streets alleys and other public areas not previously dedicated, including an accurate outline of any portions of the property intended to be dedicated or granted for public use;

~~p-q.~~ Appropriate certificates as determined by the Town Attorney. These certificates shall include, but not be limited to:

- (1) Certification signed and dated by a registered licensed North Carolina Land Surveyor ~~that the subdivision is or is not in a floodplain;~~
- (2) Certificate of Approval (see template below)
- (3) Certification of platting signed and dated by the owner, appearing on or attached to the plat and on all separate sheets comprising the plat, acknowledging the dedication to public use of all streets, alleys, parks or other open spaces shown thereon and the granting of easements required;
- (4) Certificate of Survey and Accuracy (see template below);
- (5) NCDOT Certification (~~if applicable for streets proposed as public that are outside of~~ municipal corporate limits, see template below); and
- (6) Review Officer Certification (see template below).

Certificate of Approval

I hereby certify that all streets shown on this plat are within the Town of Southern Pines' planning jurisdiction, all streets and other improvements shown on this plat have been installed or completed or that their installation or completion (within twelve months after the date below) has been assured by the posting of a performance bond or other sufficient surety, and that the subdivision shown on this plat is in all respects in compliance with the Southern Pines Town Unified Development Ordinance, and therefore this plat has been approved by the Southern Pines ~~planning~~ Planning director ~~Director~~, subject to its being recorded in the Moore ~~county~~ County Registry within sixty days of the date below.

Date Planning Director

Certificate of Ownership and Dedication:

I hereby certify that I am the owner of the property described hereon, which property is located within the subdivision regulation jurisdiction of the Town of Southern Pines, that I hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as streets, alleys, walks, parks, open space and easements, except those specifically indicated as private and that I will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Southern Pines Town Council in the public interest.

Date Owner

~~(Notarized)~~

Certificate of Survey and Accuracy:

I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision. (Deed description recorded in Book _____, Page _____, etc. (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, Page _____; ~~That that~~ the ratio ~~or of~~ precision or positional accuracy as ~~calculation-calculated~~ is ~~1-~~ _____; that this plat was prepared in accordance with G.S. § 47-30. Witness my original signature, registration-license number and seal this _____ day of _____, A.D. 20____.

Seal or Stamp

Land Surveyor_____
Registration-License NumberThis certificate of the Notary shall read as follows:

~~_____ State of North Carolina, _____ County I, a Notary Public of the County and State aforesaid, certify that _____, a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this day of _____, 20 _____.~~

~~Seal or Stamp _____ Notary Public My Commission Expires: _____~~

Division of Highways District Engineer Certificate

I hereby certify that the public streets shown on this plat have been completed, or that a performance bond or other sufficient surety has been posted to guarantee their completion, in accordance with at least the minimum specifications and standards in accordance with at least the minimum specifications and standards of the State Department of Transportation for acceptance of subdivision streets on the state highway system for maintenance.

Date District EngineerCertificate of Review Officer

Certificate of Review Officer

I, _____, Review officer of _____ County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer

Date: _____

- ☐ **DEVELOPMENT AGREEMENT** (if applicable) – approved as to form by the Town Attorney.
- ☐ **SUBDIVISION IMPROVEMENT AGREEMENT**, (if applicable) – Copy of Agreement as prepared by applicant and approved to form by Town Attorney as well as acceptable security, per section 2.20.7.
- ☐ **STREET NAME APPROVAL**, (if applicable) – Formal written approval from Moore County Public Safety and Moore County GIS of street names within subdivisions.

- ☐ **APPROVED ENGINEERING PLANS**, or as-built plans, conforming with the requirements of the UDO, for all streets, grading, sanitary sewerage system, storm drainage facilities, water distribution system, and other pertinent site improvements.
- ☐ **COVENANTS AND RESTRICTIONS** *(if applicable)* – two copies of all covenants and restrictions and, if applicable, articles of incorporation and bylaws of a homeowner's association for the proposed subdivision;
- ☐ **HOMEOWNERS ASSOCIATION DOCUMENTATION** *(if applicable)* – homeowners' association articles of incorporation and/or bylaws shall contain the following information:
 - a. The legal description of the common land;
 - b. A description of common facilities;
 - c. The restrictions placed upon the use and enjoyment of the lands or facilities;
 - d. Persons or entities entitled to enforce the restrictions;
 - e. A mechanism to assess and enforce the common expenses for the land or facilities (e.g., utility systems, private roads and other public or quasi-public improvements) including upkeep and maintenance expenses, real estate taxes and insurance premiums;
 - f. A mechanism for resolving disputes among the owners or association members;
 - g. The conditions and timing of the transfer of ownership and control of land facilities to the association;
 - h. Any other matter the developer deems appropriate.
- ☐ **APPLICATION FEE** – as specified in Appendix H.
- ☐ **SIGNED APPLICATION** – by the applicant or authorized agent. A property owner authorized agent requires an affidavit giving permission to sign the application.
- ☐ **PUBLIC UTILITY EASEMENTS** *(if applicable)* – copies of utility easements granting the Town of Southern Pines access for future operations and maintenance of utilities.
- ☐ **ADDITIONAL DOCUMENTATION** – Additional text and/or maps provided to demonstrate consistency with the approval criteria in section 2.19 of this UDO.

**Additional information may be required. Fees are subject to change.*

MINOR SUBDIVISION APPLICATION CHECKLIST

Process Overview

Decision Making Body	Review	Recommend	Decision
Technical Review Committee		X	
Director			X
<i>X = indicates required action</i> <i>● = indicates actions that may be applicable based on development impact.</i>			

Submittal Requirements*

Please include the following information on all applications for a Minor Subdivision. If any of the information or required materials is missing or incomplete, the application will not be processed.

- ☐ **PROOF OF OWNERSHIP** – Filed deed, vendor’s lien, act of donation or tax assessment with legal description.
- ☐ **FINAL PLAT** – Copies drawn at a scale of 1" = 100' on sheets with maximum dimensions not exceeding 24 inches by 36 inches. If more than two sheets are required, an index sheet of the same dimensions shall be filed showing the entire subdivision on one sheet and the component areas shown on the other sheets. The plat shall contain the following information:
- a. Name of the subdivision;
 - b. The name of the owner or owners, or subdividers;
 - c. Date, scale and north arrow, on each page. Each sheet of the plat shall indicate its page number in relation to the total number of sheets;
 - d. The correct legal description of the property being subdivided shall be shown on the Plat;
 - e. Accurate references to known or permanent monuments, giving the bearing and distance from said monuments and State Plane coordinates of at least two subdivision corners;
 - f. The location of all survey monuments and their descriptions;
 - g. All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision, lots, streets, alleys, easements and other areas for public or private use. Linear dimensions are to be given to the nearest 1/100th of a foot. The radii, arcs or chords, points of tangency and central angles for all curvilinear streets and radii for rounded corners;
 - h. The names, lines and right-of-way widths of all proposed streets with accurate dimensions in feet and hundredths of feet with angles to right-of-way lines and lot lines;
 - i. The location of the subdivision based on an accurate traverse giving angular and linear dimensions which shall mathematically close. Bearings and distances of all exterior boundary lines and along the center lines of streets shall be furnished;
 - j. Accurate location of all existing and recorded roads intersecting the boundaries of the tract;
 - k. The gross area, net area and lot area of the land being subdivided;
 - l. The boundary lines of all adjoining lands for a distance of 150 feet and showing (with dotted lines) the right-of-way lines, adjacent streets and alleys with their widths and names, and adjacent zoning districts;
 - m. Easements and easements for rights-of-way provided for public use, services or utilities, with figures showing their dimensions and listing uses that are being provided and any limitations on such easement;
 - n. Clearly numbered lots in sequence and blocks clearly lettered in sequence;
 - n-o. The location of floodplain boundaries, as applicable;
 - o-p. A statement dedicating all easements, streets alleys and other public areas not previously dedicated, including an accurate outline of any portions of the property intended to be dedicated or granted for public use;
 - p-q. Appropriate certificates as determined by the Town Attorney. These certificates shall include, but not be limited to:
 - (1) Certification signed and dated by a registered-licensed North Carolina Land Surveyor ~~that the subdivision is or is not in a floodplain;~~

- (2) Certificate of Approval (see template below);
- (3) Certification of platting signed and dated by the owner, appearing on or attached to the plat and on all separate sheets comprising the plat, acknowledging the dedication to public use of all streets, alleys, parks or other open spaces shown thereon and the granting of easements required; and
- (4) Certificate of Survey and Accuracy (see template below);
- (5) NCDOT Certification (~~if applicable~~ for streets proposed as public that are outside of municipal corporate limits, see template below; and
- (6) Review officer certification (see template below).

Certificate of Approval

I hereby certify that all streets shown on this plat are within the Town of Southern Pines' planning jurisdiction, all streets and other improvements shown on this plat have been installed or completed or that their installation or completion (within twelve months after the date below) has been assured by the posting of a performance bond or other sufficient surety, and that the subdivision shown on this plat is in all respects in compliance with the Southern Pines UDO, and therefore this plat has been approved by the Southern Pines Planning Director, subject to its being recorded in the Moore ~~county~~ County Registry within sixty days of the date below.

Date Planning Director

Certificate of Ownership and Dedication:

I hereby certify that I am the owner of the property described hereon, which property is located within the subdivision regulation jurisdiction of the Town of Southern Pines, that I hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as streets, alleys, walks, parks, open space and easements, except those specifically indicated as private and that I will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authorized by law when such other use is approved by the Southern Pines Town Council in the public interest.

Date Owner

~~(Notarized)~~

Certificate of Survey and Accuracy:

I, _____, certify that this plat was drawn under my supervision from an actual survey made under my supervision. (Deed description recorded in Book _____, Page _____, etc. (other); that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, Page _____; ~~That that~~ the ratio ~~or of~~ precision or positional accuracy as ~~calculation~~ calculated is ~~1-~~ _____; that this plat was prepared in accordance with G.S. § 47-30. Witness my original signature, registration license number and seal this _____ day of _____, A.D. 20____.

Seal or Stamp

Land Surveyor

Registration License Number

~~This certificate of the Notary shall read as follows:~~

~~_____
State of North Carolina, _____ County I, a Notary Public of the County and State aforesaid, certify that _____, a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal,~~

this day of _____, 20 _____.

Seal or Stamp _____

~~Notary Public~~

~~My Commission Expires:~~ _____

Division of Highways District Engineer Certificate

I hereby certify that the public streets shown on this plat have been completed, or that a performance bond or other sufficient surety has been posted to guarantee their completion, in accordance with at least the minimum specifications and standards in accordance with at least the minimum specifications and standards of the State Department of Transportation for acceptance of subdivision streets on the state highway system for maintenance.

Date District Engineer

Certificate of Review Officer

Certificate of Review Officer

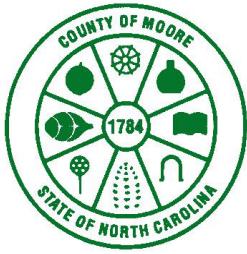
I, _____, Review officer of _____ County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer

Date: _____

- ☐ **SUBDIVISION IMPROVEMENT AGREEMENT**, (if applicable) – Copy of Agreement as prepared by applicant and approved to form by Town Attorney as well as acceptable security, per section 2.20.7.
- ☐ **APPROVED ENGINEERING PLANS** (if applicable), or as-built plans, conforming with the requirements of the UDO, for all streets, grading, sanitary sewerage system, storm drainage facilities, water distribution system, and other pertinent site improvements.
- ☐ **APPLICATION FEE** – as specified in Appendix H.
- ☐ **SIGNED APPLICATION** – by the applicant or authorized agent. A property owner authorized agent requires an affidavit giving permission to sign the application.
- ☐ **ADDITIONAL DOCUMENTATION** – Additional text and/or maps provided to demonstrate consistency with the approval criteria in section __ of this UDO.

**Additional information may be required. Fees are subject to change.*



*Office of William Britton
Moore County Register of Deeds*

*26 Courthouse Square
P.O. Box 1210
Carthage, North Carolina*

August 22, 2023

Dear Southern Pines Council and Planning,

The requirement in G.S. 47-30 for Surveyors to have their certificate notarized from 1983 to 1997. (a notary certificate was included in the surveyor's certificate required in GS47-30(d)) In 1997 it was removed from the statute.

Requiring owner signatures to be notarized is unnecessary and considerably rarer than simply requiring their sign-off. It also complicates the process significantly, especially when multiple owners are involved. In the hard copy map realm, surveyors may have owners come in and sign in-person and be notarized that way, but owners out-of-town (or state) may have to be sent the map for signature and notary. For an eRecorded map, electronic notaries are required for eSignatures and must be submitted electronic with no wet signature. As requiring owner's names to be notarized can cause significant additional burden to the process and additional costs for something which is legally unnecessary. I ask that Southern Pines consider removing the requirement requiring plat owner notarization from the UDO appendix to allow for future growth and ease for the citizens of Moore County and for the transition to electronic recording of plats.

On the requirement of an owner signature and possible notarization: Nothing in the statute requires the owner to sign the map. Many jurisdictions do not require it as part of their own ordinances, some may require an owner signature for subdivisions.

As a map does not convey title, and requiring the owner's signature to be notarized is an unnecessary hurdle, although not something which is prohibited. The Registers of Deeds Association and Secretary of State highly encourage the reduction of the number of various departmental signoffs and certificates on the map, which in some jurisdictions can be excessive and take up a lot of room on the map, leaving limited room for the actual map information itself, and often necessitating maps being multiple pages just to accommodate those certificates. Statutorily, maps must be certified by the surveyor, who by signing off is confirming that the signature obtained is an owner and that it was developed to all the standards necessary.

Sincerely,

William Britton
Moore County Register of Deeds

Agenda Item

To: Planning Board

From: Alaina Mallette, Senior Planner

Subject: SU-01-23: Special Use Permit to expand authorized land uses in Mill Creek Mixed-Use Development master plan; Petitioner: Mill Creek Partners, LLC by Koontz Jones Design, Agent

Date: September 21, 2023

I. SUMMARY OF APPLICATION REQUEST

Mr. Bob Koontz of Koontz Jones Design, on behalf of Mill Creek Partners, LLC, has submitted a Special Use Permit major amendment application pursuant to §2.21.12(A) of the Town of Southern Pines Unified Development Ordinance (UDO) to expand the authorized land uses in the General Business conditional zoning district (GB-CD) portion of the development. This amendment proposes adding land uses in categories such as automobile services; heavy, durable, and other consumer goods sales or services; health and personal care and services; rentals and leasing of vehicles, recreational goods, and commercial equipment; transportation, communication, and utilities; educational services; health and human services, including clinics and overnight facilities; and construction-related businesses to the list of authorized uses in the GB-CD portion of the development. The amendment also proposed modifications to the Master Plan map to change “Shopping” and “Office/Condominium” sites within the GB-CD to “General Business.”

II. PROJECT INFORMATION

A. Property Owner & Applicant Information

Property Owner	Applicant	Authorized Agent
Mid Pines Development Group	Mid Pines Development Group	Koontz Jones Design
c/o Kelly Miller	c/o Kelly Miller	Robert Koontz
PO Box 88	PO Box 88	150 S. Page Street
Southern Pines, NC 28388	Southern Pines, NC 28388	Southern Pines, NC 28387

B. Project History and Site Information

i. Location

The subject properties are located on Mill Creek Road, which is south of Airport Road about a quarter of a mile east of the traffic circle and is currently zoned GB-CD (General Business Conditional Zoning District). The site also has access off Central Drive/NC-22 between Warrior Woods Road and the roundabout. The

properties in question are identified as PARIDs 20070989 and 20070990 and are owned by Mill Creek Partners, LLC, and Mill Creek Partners II, LLC. (See Figures 1 and 2). The surrounding properties include planned developments—such as Tyler’s Ridge, Ace Hardware, and Caropines—residential zones, Sandhills Community College, and Moore County Airport (see .

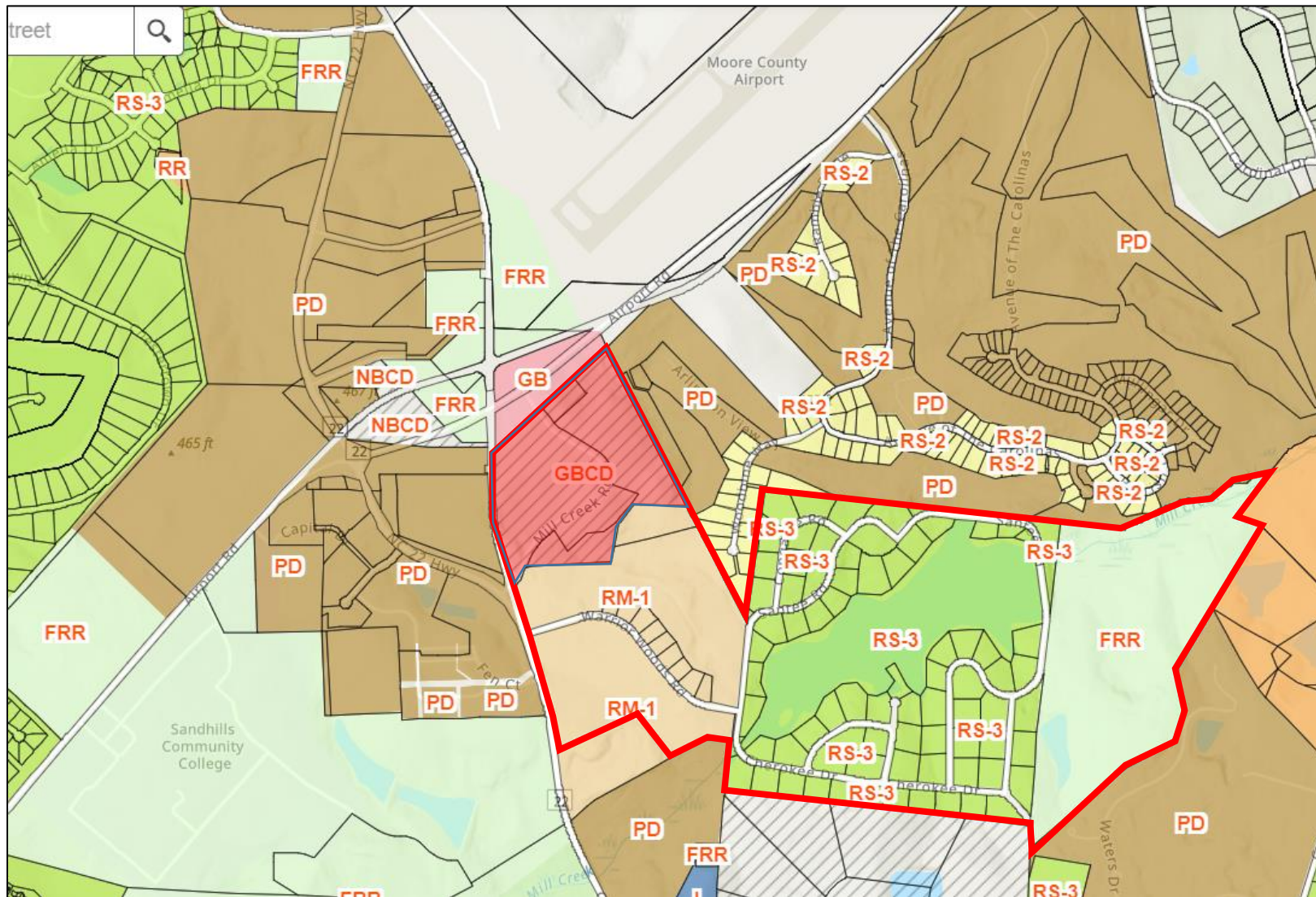
ii. Zoning/Future Land Use Map Designation

The zoning of the parcels for the portion of the development being amended is GB-CD under permit CU 02-98 (see Figure 2). The subject parcel is designated as Commercial on the Future Land Use Map.

Figure 1: Immediate Vicinity Map. Approximate amendment area boundary indicated by red line.



Figure 2: Zoning and Location Map. The whole Mill Creek Land Use Master Plan encompasses the area outlined in red. The major amendment to the Special Use Permit is for the area highlighted in red under current General Business Conditional Zoning District zoning.



III. STAFF REVIEW

A. Application Review Dates

- Special Use Permit SU-07-22 Application Submitted: **August 14, 2023**
- Application Deemed Complete: **August 21, 2023**
- TRC Staff Review: **August 22, 2023**
- Notice of Planning Board Preliminary Forum:
 - Posted On-site: **September 14, 2023**
 - Mailed: **September 7, 2023**
 - Internet: **August 24, 2023**
 - Published: N/A for SUP
- Planning Board Preliminary Forum: **September 21, 2023**

B. Process of Review

The Mill Creek Master Plan was approved in 1998 under Conditional Use Permit CU-02-98 and an amendment to such permit is required to follow the current Special Use Permit major amendment process. The procedures for review and approval of a Special Use Permit major amendment, per UDO §2.21, establish a process and standards to approve certain uses that, because of unique characteristics or potential impacts on adjacent land uses, are not permitted in zoning districts as a matter of right.

C. Standards for Review

UDO standards for Special Use Permit Criteria, UDO §2.21.6 (A-F) apply to the review of this special use permit.

D. Criteria for Review and Compliance with the UDO

- i. **Compliance with Special Use Permit Criteria – UDO §2.21.6 (A-F).** A Special Use is permitted only if the applicant demonstrates that:

- A. *The proposed special use shall comply with all regulations of the applicable zoning district and any applicable supplemental use regulations;*

The applicant's Justification document (Attachment 3) states that the intent of the major amendment is to clarify permissible uses within the General Business portion of the development. The applicant uses a similar format to UDO Exhibit 3-15 Table of Authorized Land Uses to create a list of permissible uses (i.e., "Exhibit A" in the Mill Creek Master Plan, Attachment 4). A comparison of land uses permitted in both the proposed major amendment and the UDO are shown in Table 1 of this staff report, which can be found under Planning staff's review of Criteria F below. In this analysis, Planning staff identified that commercial property-related mini- or self-storage (Land Based Classification Standards, LBCS, 2321) is included in the Applicant's Exhibit A as a permissible use, but this use is not permitted within the

conventional General Business district (see text amendment file OA-03-23 and Ordinance #2096, approved on August 8, 2023).

Proposed expanded land uses that have supplemental land use regulations include assisted-living board and care, adult care group homes, hotel and the like, scientific research and development services, mobile food services, government-owned establishments (such as defense agencies and National Guard), inpatient nursing and rehabilitative services, and child daycare. An approval of this major amendment request would constitute entitlement for each of these land uses, essentially making them by-right uses within the GB-CD. As such, future development for any of these land uses (and all others in the Applicant's Exhibit A) would proceed to site plan review and architectural compliance review to check for compliance with any applicable supplemental use regulations.

- B. The proposed special use shall conform to the character of the neighborhood in which it is located and not injure the use and enjoyment of property in the immediate vicinity for the purposes already permitted;*

The applicant states that they will adhere to the UDO General Business standards and other applicable zoning standards. Additionally, Figure 2 shows the Zoning and Location Map, which shows the subject properties surrounding by Planned Development districts. Two of these Planned Development Districts include Tyler's Ridge and Ace Hardware (see Figure 3), which include commercial land uses and buildings. Therefore, Planning staff believe that the proposed amendment conforms to the commercial neighborhood where it is located except for the commercial property-related mini- or self-storage land use proposed as a permissible land use within the GB-CD.

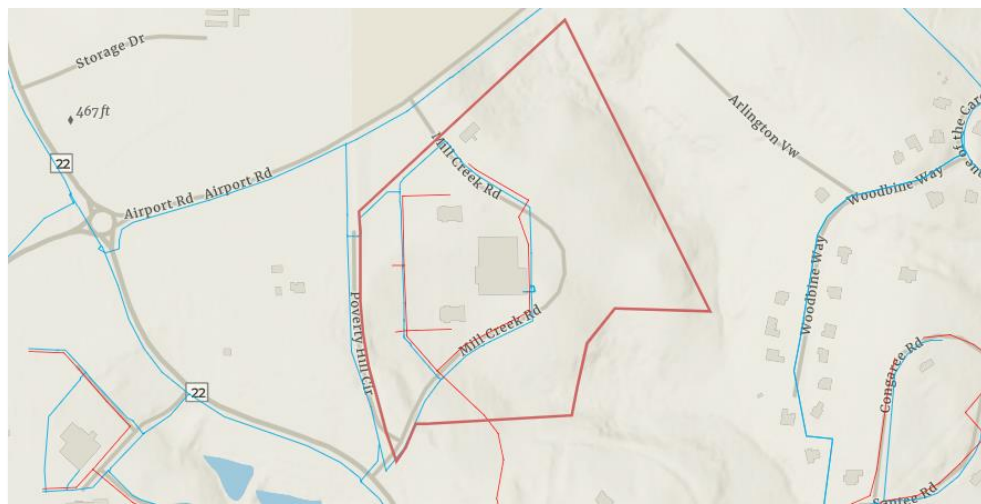
- C. Adequate public facilities shall be provided as set forth herein;*

The applicant states that water and sewer are readily available to the site, infrastructure has been installed in previous phases of development, and any further expansion will be borne at the cost of the developer. The Town's geographic information systems spatial data layers show both sewer gravity main and water main lines intersecting the properties (see Figure 4). Furthermore, Mill Creek Road is a paved town road while Airport Road and Central Drive are both minor arterial roads owned and maintained by North Carolina Department of Transportation. Considering this information, Planning staff consider the properties to have adequate public facilities.

Figure 3. Neighborhood Character. Tyler's Ridge (Top; Google Streetview) and Ace Hardware (Bottom; Rendering from File AR-16-22)



Figure 4: Existing Sewer Gravity and Water Main Lines. Approximate amendment area boundary indicated by thick red line. Sewer gravity mains are shown in red while water mains are shown in blue.



- D. The proposed use shall not impede the orderly Development and improvement of surrounding property for uses permitted within the zoning district or substantially diminish or impair the property values within the neighborhood;*

The application narrative states that the modifications are “in conformance with the surrounding development and zoning classifications.” No analysis has been submitted on the potential impact of the expanded permitted uses on property values within the neighborhood. No analysis on other potential positive or negative impacts to orderly development (such as trip generation, sewer and water demand, noise generation, parking, etc.) have been provided by the applicant.

- E. The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, comfort or general welfare;*

The Applicant Justification states that “future phases will conform to all development standards... and requirements of the Town. As a result, the use will not be detrimental...” A Traffic Impact Analysis was submitted on September 1, 2023, to Planning staff and the Town Engineer. The Town Engineer, James Michel, sent five comments on the Traffic Impact Analysis on September 12, 2023, to Travis Fluitt of the consulting firm Kimley-Horn & Associates, Inc. (see Attachments 5 and 6) and copied to Paul Saathoff of the applicant’s firm KoontzJones Design. Planning staff reached out to Mr. Saathoff on September 13, 2023, and he had not had enough time to review Mr. Michel’s comments. As of the writing of this staff report, Planning staff have not received a response from Mr. Fluitt regarding the Town Engineer’s comments. Therefore, at this time, Planning staff cannot determine compliance with this criterion.

- F. The public interest and welfare supporting the proposed use shall be sufficient to outweigh individual interests that are adversely affected by the establishment of the proposed use.*

The applicant claims that the proposed uses and changes are consistent with the 2016 Comprehensive Long-Range Plan and the character of the surrounding neighborhood. Planning staff have prepared a comparative list of all the uses allowed in the conventional General Business district and what the applicant has included in their list of authorized GB-CD uses in “Exhibit A” of their application (see Attachment 4 and Table 1 below).

Staff believes that the Applicant’s Exhibit A should include a note that states that exclusively the specific uses in the white fill rows (i.e., non-

grey rows identifying general land use categories) are permitted, and that the inclusion of land use categories (e.g., automobile sales or service establishment) in the table does not permit all land uses nested within that category under the LBCS (e.g., a car dealer). However, there are some instances where a category of land uses such as LBSC 2510, 2630, 5380, 5390, 6110, 7100, etc. do not include sub-categories and should be changed from grey fill to white fill for clarity that it is the most specific type of land use for its category. This distinction will be important to avoid misunderstandings during future interpretations of the master plan.

Planning staff believe that the exclusion of natural and other recreation areas from the list of permissible uses is not consistent with the public interest and welfare of the adjacent residential neighborhoods and community as a whole who may be using the commercial spaces in the future. Considering the volume of proposed uses, Planning staff cannot determine whether the public interest and welfare, if constructed, outweigh individual interests that are adversely affected by the establishment of the proposed use. Additional information would be needed to identify what uses comply with this criterion and which do not.

Table 1. Comparison of Authorized Uses in UDO and Applicant's Exhibit A

<i>General Business Authorized Uses in Both UDO and Applicant's Exhibit A</i>	<i>General Business Authorized Uses in UDO, but Not Applicant's Exhibit A</i>	<i>General Business Authorized Uses in Applicant's Exhibit A, but in UDO</i>
Assisted-living board care and adult care group homes	Accessory Dwelling	Commercial property-related mini- or self-storage
Nursing or convalescent home	Bed and Breakfast Home or Inn	
Hotel, motel, tourist home, or tourist court	Car Dealer	
Bicycle sales and repair	bus, truck, mobile homes, or large vehicles sales or services	
Parts, accessories, or tires	motorcycle, atv sales or services	
Gasoline service	boat or marine craft dealer	
Automotive repair and maintenance	lumber yard and building materials	
Furniture or home furnishings	heating and plumbing equipment	
Hardware, home center	tobacco or tobacconist establishment	
Lawn and garden supplies	Markets for farm produce or crafts	
Department store, warehouse club, or superstore	Pawn shop	
Electronics and appliances	Veterinary services	

<i>General Business Authorized Uses in Both UDO and Applicant's Exhibit A</i>	<i>General Business Authorized Uses in UDO, but Not Applicant's Exhibit A</i>	<i>General Business Authorized Uses in Applicant's Exhibit A, but in UDO</i>
Computer and software	Administrative support services	
Camera and photographic supplies	Landscaping Services to Buildings and Dwellings	
Clothing, jewelry, luggage, shoes, clocks, sewing	Carpet and upholstery cleaning Services to Buildings and Dwellings	
Sporting goods, toy and hobby, and musical instruments	Packing, crating, and convention and trade show Services to Buildings and Dwellings	
Books, magazines, music, videos, cds, stationery, greeting cards, seasonal decorations, school and office supplies, etc.	Food service contractor	
Florist	Vending machine operator	
Art dealer, supplies, sales and service	coin-operated laundromat	
Mail order or direct selling establishment	Parking lot and parking garage	
Antique shop, flea market, thrift stores	tattoo parlor	
Grocery store, supermarket, or bakery	adult establishment	
Convenience store	adult cabaret	
Specialty food store	Animal boarding	
Fruit and vegetable store	Pet cemetery	
Beer, wine, and liquor store	Printing and related support activities for wood, paper, and printing products	
Pharmacy or drug store	Jewelry and silverware manufacturing	
Cosmetic and beauty supplies and personal grooming products	Dolls, toys, games, and musical instruments manufacturing	
Optical and contact lenses	Office supplies, inks, etc. manufacturing	
Bank, credit union, or savings institution	Signs manufacturing	
Credit and finance establishment	Wholesale trade establishment	
Investment banking, securities, and brokerages	Office and warehousing	

<i>General Business Authorized Uses in Both UDO and Applicant's Exhibit A</i>	<i>General Business Authorized Uses in UDO, but Not Applicant's Exhibit A</i>	<i>General Business Authorized Uses in Applicant's Exhibit A, but in UDO</i>
Insurance-related establishment	local transit systems—bus, special needs, and other motor vehicles	
Fund, trust, or other financial establishment	non-local and charter bus transportation	
Real estate services	Sightseeing transportation	
Rental housing-related property management services	Taxi and limo service transportation	
All rental and leasing land uses (LBCS 2330 series)	towing and other road and ground services	
All professional services land uses (LBCS 2410 series) EXCEPT veterinary services	Postal services	
All administrative services land uses (LBCS 2420 series) EXCEPT facilities support services	national post office	
Full-service restaurant	All land uses in the motion pictures and sound recording category (LBCS 4220 series)	
Cafeteria or limited service restaurant	towers and antennas taller than 50'	
Drive-through restaurants	Natural gas utility service	
Snack or nonalcoholic bar	Water utility service	
Bar or drinking place	Solid waste collection utility service	
Mobile food services	Wastewater utility service	
Caterer	Historical or archeological institution	
All personal care land uses (LBCS 2610 series)	Amusement or theme park establishment	
Dry cleaning and laundry	Natural and other Recreational Parks	
Linen and uniform supply	All types of grade schools (LBCS 6120 series) EXCEPT special needs education services schools	
Photofinishing	All technical, trade, or other specialty schools (LBCS 6140 series)	
Massage therapist	Judicial functions	
Pet or pet supply store	Blood or organ bank	
Animal services	Hospital	

<i>General Business Authorized Uses in Both UDO and Applicant's Exhibit A</i>	<i>General Business Authorized Uses in UDO, but Not Applicant's Exhibit A</i>	<i>General Business Authorized Uses in Applicant's Exhibit A, but in UDO</i>
Courier and messenger services	Community food services	
Newspapers, books, periodicals, etc. Publishing	Emergency and relief services	
Software publisher	Other family services (LBCS 6565)	
All tele-communications and broadcasting land uses (LBCS 4230 series) EXCEPT towers and antennas taller than 50'	Homeless shelters	
All information services and data processing industries (LBCS 4240 series)	Religious institutions (small or others)	
Electric service distribution lines and substations	Funeral home and services	
Theater, dance, or music establishment	All cemetery or cremation services (LBCS 6720 series)	
Agent for management services	Carpentry, floor, and tile contractor	
Independent artist, writer, or performer	Electrical contractor	
Museum	Glass and glazing contractor	
Games arcade establishment	Masonry and drywall contractor	
Miniature golf establishment	Painting and wall covering contractor	
Public or private fitness, recreational sports, gym, athletic club, multipurpose facility	Plumbing, heating, and air conditioning contractor	
Bowling, billiards, pool	Roofing, siding, or sheet metal contractor	
Skating rink, roller skating	Outdoor crop production	
Nursery or preschool	All greenhouse crop production (LBCS 9140 series)	
Special needs education services school	Home occupations	
Legislative and executive public administration uses		
Other government functions (LBCS 6300)		
All public safety land uses (LBCS 6400 series)		

<i>General Business Authorized Uses in Both UDO and Applicant's Exhibit A</i>	<i>General Business Authorized Uses in UDO, but Not Applicant's Exhibit A</i>	<i>General Business Authorized Uses in Applicant's Exhibit A, but in UDO</i>
All ambulatory or outpatient care services (LBCS 6510 series) EXCEPT blood or organ banking		
Inpatient nursing and rehabilitative services (LBCS 6520)		
Health care facility (LBCS 6540)		
Child and youth services (LBCS 6561)		
Child daycare (LBCS 6562)		
Services for elderly and disabled		
Veterans affairs		
Vocational rehabilitation		
Any associations, non-profit organizations, clubs (LBCS 6800 series)		
Building, developing, and general contracting for construction-related businesses		
Temporary uses		
Major and minor subdivision		
Combination uses		

ii. Development Design and Other Standards from UDO Chapter 4

Any future development proposals that are on the Applicant's list of authorized GB-CD uses in "Exhibit A" of their application (see Attachment 4) will require Site Plan Review and approval by the Technical Review Committee as well as Architectural Compliance Review and approval by the Town Council, unless state statutes limit local design standards for structures built to residential building code.

E. General Staff Comments

- Approval of the request will result in the expansion of authorized land uses to a total of 120 land uses (excluding commercial property-related mini- or self-storage, which would bring the total to 121 land uses) rather than the current 14 land uses, which do include several categories that are generalized and could include more sub-categories of land uses, such as "minor shops" and "professional office."

- Commercial property-related mini- or self-storage included as a proposed authorized use is not a by-right use in the conventional General Business district, per text amendment file OA-03-23 and Ordinance #2096, approved on August 8, 2023; therefore, should not be included in the Applicant's Appendix A.
- Planning staff believe that the exclusion of natural and other recreation areas from the list of permissible uses is not consistent with the public interest and welfare of the adjacent residential neighborhoods and community as a whole who may be using the commercial spaces in the future.
- No analysis has been completed on the potential impact of the expanded permitted uses on property values within the neighborhood. No analysis on other potential positive or negative impacts to orderly development (such as trip generation, sewer and water demand, noise generation, parking, etc.) has been provided by the applicant.
- A Traffic Impact Analysis was submitted on September 1, 2023, to Planning staff and the Town Engineer. The Town Engineer, James Michel, sent five comments on the Traffic Impact Analysis on September 12, 2023, to Travis Fluitt of the consulting firm Kimley-Horn & Associates, Inc. (see Attachment 5) and copied to Paul Saathoff of the applicant's firm KoontzJones Design. Of particular concern is the insufficient projections for pedestrian and multimodal trips. The TIA should consider the surrounding greenway and sidewalk networks in the Tyler's Ridge, Caropines, and Warrior Woods areas and analyze if connections can be made.
 - Planning staff reached out to Mr. Saathoff on September 13, 2023, and he had not had enough time to review Mr. Michel's comments. As of the writing of this staff report, Planning staff have not received a response from Mr. Fluitt regarding the Town Engineer's comments. Therefore, at this time, Planning staff cannot determine compliance with Special Use Permit Criterion E.
- The Applicant should make formatting changes or add text to their "Exhibit A" for clarity on what land uses specific categories encompass. Otherwise, misunderstandings about intent of a land use category and what sub-categories were meant to be included could occur.
- Pursuant to UDO §2.27.7, in approving any special use permit, the Town Council may impose such reasonable standards, conditions, or requirements as it may deem necessary to protect the public health, safety and welfare. As a preliminary forum to the evidentiary hearing, the Planning Board is solely allowed to provide a list of issues to the Town Council.

F. Outside Agency and Neighborhood Meeting Comments:

Staff has provided information on the project to outside agencies and has received the following responses:

- A response from the Town's Utilities Superintendent Ron Istre was received on August 25, 2023 stating that he had no comments.

- A response from the Town's Town Engineer James Michel was received September 12, 2023, and is Attachment 5 of this staff report. Particularly, insufficient projections for pedestrian and multimodal trips. The TIA should consider the surrounding greenway and sidewalk networks in the Tyler's Ridge, Caropines, and Warrior Woods areas and analyze if connections can be made.
- The Technical Review Committee reviewed a Pre-Application submittal for the project at their August 22, 2023 meeting, with no major issues identified. Site plan review and approval will be required prior to issuance of any building permits for development, if approved.

Additionally, staff is unaware if the applicant conducted a voluntary neighborhood meeting to present the proposed amendments to the neighboring community and receive feedback.

IV. ATTACHMENTS:

The following materials are provided as attachments to this staff memorandum:

1. Special Use Permit Application
2. Applicant's Special Use Permit Narrative
3. Applicant's Special Use Permit Justification
4. Master Plan Document including Maps
5. Traffic Impact Analysis (TIA) Executive Summary
6. Town Engineer Comments on Traffic Impact Analysis

Note that the following additional materials are available on the Town's Pending Applications website:

- Agent Authorization Form
- Deeds
- List of Adjoining Properties Provided by Applicant
- Mill Creek Traffic Impact Analysis dated September 1, 2023 (263 pages)

V. PLANNING BOARD ACTION:

Pursuant to North Carolina General Statute §160D-301(b)(6) and Unified Development Ordinance §2.5.2, the Planning Board may hold a Preliminary Forum on a matter requiring a quasi-judicial decision by the Town Council. However, no part of the forum or any recommendation may be used as a basis for the deciding board.

Therefore, the Planning Board may wish to use the following motion to identify issues to bring to the attention of the Town Council at the evidentiary hearing.

I move to adopt the following for transmission to the Town Council as a result of the September 21, 2023 Preliminary Forum on application SU-01-23:

The information presented at the forum indicated that the following issues be considered in applying the criteria for a SUP to application SU-01-23:

1. Commercial property-related mini- or self-storage included as a proposed authorized use is not a by-right use in the conventional General Business district, per text amendment file OA-03-23 and Ordinance #2096, approved on August 8, 2023; therefore, should not be included in the Applicant's Appendix A.
2. No analysis has been completed on the potential impact of the expanded permitted uses on property values within the neighborhood. No analysis on other potential positive or negative impacts to orderly development (such as trip generation, sewer and water demand, noise generation, parking, etc.) has been provided by the applicant.
3. The applicant has not responded to the Town Engineer's TIA comments.

In addition, the following concerns were raised during the forum, but do not seem to apply in determining whether the SUP criteria are satisfied:

1. The applicant should reformat Exhibit A to address potential land use interpretation issues addressed in the staff report



Special Use Permit Application

Fee: \$ _____

Date Paid: _____

Case No.: SU-____-____

Project Information:

Street Address: MILL CREEK RD.

PIN: 858300176636; 858300274839

Parcel ID: 20070989; 20070990

Site Size: ±40.44 AC

Zoning: GB-CD

Applicant:

Name(s): MILL CREEK PARTNERS, LLC

Email: letitgo@pinehurst.net

Phone: 910-295-5011

Mailing Address: PO BOX 1511 PINEHURST, NC 28374

Authorized Agent, if different from Applicant:

Name(s): BOB KOONTZ - KOONTZ JONES DESIGN

Email: bkoontz@koontzjones.com

Phone: 910-684-8487

Mailing Address: 150 S Page St Southern Pines, NC 28387

Legal Property Owner(s), if different from Applicant:

Name(s): MILL CREEK PARTNERS, LLC & MILL CREEK PARTNERS II, LLC

Email: letitgo@pinehurst.net

Phone: 910-295-5011

Mailing Address: PO BOX 1511 PINEHURST, NC 28374

TO THE TOWN OF SOUTHERN PINES PLANNING BOARD AND TOWN COUNCIL:

I, the undersigned, do hereby make application to and petition the Planning Board and Town Council to grant a Special Use Permit as required by the Town of Southern Pines Zoning Ordinance. The following information is submitted in support of this application:

The property which is the subject of this application is located on the SOUTH side of AIRPORT RD (St./Ave.), between POVERTY HILL (St./Ave.) and MILL CREEK (St./Ave.). The property has a frontage of ±1290 feet and a depth of ±1510 feet.

The special use sought is based upon Section(s) 2.21 of the **Town of Southern Pines Unified Development Ordinance**. The proposed use of the property is as follows:

GENERAL BUSINESS

Date:

8/10/23

MILL CREEK PARTNERS LLC

John E. Gomer
Applicant

PLANNING DEPARTMENT
TOWN OF SOUTHERN PINES

plan@southernpines.net (910) 692-4003 www.southernpines.net

**MILL CREEK
SPECIAL USE PERMIT NARRATIVE**

The property described as the Mill Creek Mixed-Use Development in the submitted documents and exhibits was approved in 1998. It is located on the south side of Airport Road and East of NC Highway 22. Original property approvals comprised areas zoned GB-CD, RM-1, and RS-3 and included the Warrior Woods subdivision and Mill Creek shopping center.

Since the original approval, much of the originally approved Mill Creek Shopping Center has been developed. A grocery store, personal services businesses, medical offices, and restaurants have been developed in the shopping center through the original approvals of the development.

Since the original development was approved, there have been several versions of the Unified Development Ordinance (UDO). The Table of Authorized Land Uses within the UDO has been modified and is now much more specific than the ordinance in place when the Mill Creek project was approved. This special use permit (SUP) is submitted to clarify what permitted uses are authorized within the established GB-CD district and to update the permitted uses using the current UDO standards and LBCS codes. Furthermore, this special use permit also aims to clarify where these uses are permitted within the GB-CD zoned area.

This SUP proposes to clarify two (2) parts of the original 1998 zoning documents as described below:

Part I:

General Business Uses:

Under the 'Zoning' section (pages 9 & 10) of the approved 1998 zoning documents, were listed general land uses allowable within the GB-CD area. The Table of Permissible Uses in place at the time of approval was vague and included broad land-use categories (i.e., 'Shopping Centers' and 'Entertainment Facilities'). At the time, the UDO did not include LBCS codes which are much more specific and are part of the current UDO. To provide greater clarity for the applicant and Town staff related to the land uses permitted in the Mill Creek Shopping Center, Exhibit 'A' has been included with this application. Exhibit 'A' utilizes the current UDO's Table of Authorized Uses to describe the uses permitted in the Mill Creek Shopping Center area and permitted within the GB-CD district. The proposed uses are consistent with the current uses and character of the existing Mill Creek shopping center and the vision of the previously approved zoning documents.

Part II:

Illustrative Map Update:

The 'Regulatory Map' included in the approved 1998 zoning documents indicates that the Mill Creek shopping center area, in its entirety, is a GB-CD zoning district. It would be assumed that the uses



identified under the 'General Business' section of the zoning document would be permitted in the entirety of this area. However, the 'Illustrative Plan,' included with the 1998 zoning documents, labels a bubble within this area as an 'Office Condominium Site,' leading to confusion about what is permitted within this area. Under the current UDO, many office uses are permitted within the GB zoning district. An update to the 'Illustrative Plan' is included with this application and removes the 'Office Condominium Site' label to clarify that the GB uses, as provided in the original zoning documents and further identified with Exhibit 'A' of this application, are permitted within the entire shopping center area.

This SUP proposes the above amendments to clarify the uses permitted within the Mill Creek GB-CD district to correspond to the current UDO's more distinct land use categories. No modifications or changes are proposed to the RM-1 or RS-2 districts within the Mill Creek development. Future development of the Mill Creek Shopping Center will follow the development standards as established in the approved Mill Creek Mixed-Use Development zoning documents and these updated documents.

Mill Creek Special Use Permit Justification

Below are listed the six (6) criteria required to approve a Special Use Permit application as described in Section 2.21.7 of the Town of Southern Pines UDO. Following the individual criteria is an explanation, indicated in red, describing how the project demonstrates compliance with each of these criteria.

A Conditional Use is permitted only if the Applicant demonstrates that:

- (A) The proposed special use shall comply with all regulations of the applicable zoning district and any applicable supplemental use regulations;

The purpose of this special use permit is to clarify what permitted uses are allowed in the established GB-CD district and update them using the current UDO and LBCS codes. All future development will comply with all regulations of the GB-CD zoning district and any applicable supplemental use regulations. All future development will meet the standards specified in the Mill Creek zoning documents or the Southern Pines Unified Development Ordinance.

- (B) The proposed special use shall conform to the character of the neighborhood in which it is located and not injure the use and enjoyment of property in the immediate vicinity for the purposes already permitted;

The proposed uses will adhere to the standards of the zoning district or UDO and are in character with the surrounding properties and current development.

- (C) Adequate public facilities shall be provided as set forth herein;

Public water and sewer utilities are readily available for the project, any cost of which will be borne by the developer. Previous phases of the development have developed the infrastructure adequate for the overall development. Future phases of development will have access to accommodate emergency and waste removal vehicles.

- (D) The proposed use shall not impede the orderly Development and improvement of surrounding property for uses permitted within the zoning district or substantially diminish or impair the property values within the neighborhood;

This project will not impede the development of surrounding properties as it is in conformance with the surrounding development and zoning classifications. The proposed use is consistent with the previous phases of the development.

- (E) The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, comfort or general welfare; and

Future phases will continue the existing development pattern and conform to all development standards of the GB-CD zoning district, UDO, and engineering requirements of the Town. As a result, the use will not be detrimental to or endanger the public health, safety, comfort, or general welfare of the surrounding neighborhood.

- (F) The public interest and welfare supporting the proposed use shall be sufficient to outweigh individual interests that are adversely affected by the establishment of the proposed use.

The requested special use permit is in compliance with the established development pattern and is in conformance with the underlying conditional zoning district. This project is also consistent with the goals and objectives of the Comprehensive Long Range Plan (CLRP) and establishes a development pattern that is in context with the surrounding neighborhood and the projects in this area of Southern Pines. The CLRP classifies this property as Commercial, which is consistent with the overall plan.

LAND USE MASTER PLAN

FOR

MILL CREEK

MIXED – USE DEVELOPMENT

SOUTHERN PINES, NORTH CAROLINA

prepared for
Pinehurst Area Realty

By
The Hayter Firm

March 23, 1998
Edited By Koontz Jones Design
August 14, 2023

I. INTRODUCTION

The purpose of this master plan is to provide a framework for the development of a mixed-use development on the 392 acre “Warrior woods – Mill Creek – Camp Easter” site. The site is located on the west side of NC 22 and is bordered by Airport Road to the north, The Carolina Golf Course to the east, and Hunter’s Glen to the south. The plan includes recommendations for developing comprehensive multi-use commercial, residential and recreational uses on this site. Recommendations on land use, facilities, circulation systems, and environmental management are provided in the plan. Illustrations, graphic images, and this text are intended to assist in understanding the intent of the plan.

The final site use plan culminates refinements to the program, input from the Pinehurst Area Realty in cooperation with the planning experience of The Hayter Firm. This plan is not a compendium on how to design, construct, and develop each component, facility, or area. It is however a plan to guide the development and realization of a significant community center to occur in northeast Southern Pines.

II. THE PLANNING PROCESS

Land Use Concepts

The consultants met with Pinehurst Area Realty during several programming sessions to determine the applicability and marketability of the land-use elements and generate a development program that would guide the upcoming planning process. Based on the refinement of the development program and an application of the site inventory and analysis, the consultants developed a land use diagram. Four categories of land use were identified: Single family Residential, Multi-Family Residential, Commercial, and Recreational. The land use relationships shown on that plan allowed the Pinehurst Area Realty (P.A.R.) to evaluate the benefits, advantages, and general effects of each proposed land use and its relationship to others uses on the site. Each of the four land use types used in this report were schematically tested to ensure that the locations shown were viable. However, detailed studies of each individual development sites should be undertaken in order to address issues specific to those land uses. Along with land use concepts were presented to P.A.R. and the concepts shown were reviewed with the consultants. Based on the review sessions, several program and site use priorities were revised and incorporated in the final plan.

Programming

Meetings, interviews, and written communication provided the needs, desires, and expectations of the plan. These elements were evaluated to determine their importance, requirements, and possible effects on the entire site. This process resulted in quantifying and qualifying the design elements, site uses and interrelationships. The refinement of this data and its application was presented to P.A.R. in draft form to elicit comment. The plan was revised based on the resulting comment and is presented in the following graphic documents. The following table contains the programming elements that will occur in the proposed development plan.

Development Program

ZONING CODE	LAND USE	GROSS FLOOR AREA	PARKING SPACES	PARKING RATIO	ACREAGE PROVIDED	COMMENTS
General Business – Commercial – Total Site Area : 37.16 ac						
	GB uses (Per Exhibit A)	210,556 sf		Per UDO Standards		
Residential Site #1 – Total Site Area: 71.56 ac Total dwelling units permitted @ 2 du/ac = 143.12						
1.330	Multi-Family- Site #1 60 units (8 du / structure)	107,300 sf total	16	2/d.u.	6.94 ac	10 d.u. / acre
1.320	Multi-Family- Site #2 as per elder housing specs		?		4.19 ac	6 d.u. / acre
1.110	Single Family Detached 35 lots. 6 built	.76 ac average			20,000 sf min. – 2 d.u. / ac max	1.3 d.u. / acre
Residential Site #2 (Warrior Woods) Total Site Area: 144.95 ac Total dwelling units permitted @ 2 du/ac = 289.90						
	Single Family Detached 92 lots. 15 built/owned (56 existing, 77 proposed)	.85 ac average				Net gain 21 lots
Residential Site #3 (Camp Easter) Total Site Area: 72.05 Ac Total dwelling units permitted @ 2 du/ac = 144.10						
	Single Family Detached 23 lots	.73 ac average				
	Multi-Family #4 – 77du				12.86 ac	6 du / acre
	Multi-Family #5 – 25du				4.29 ac	6 du / acre
	Multi-Family #6 – 17du				2.91	6 du / acre
Totals	354 du total 577.12 d.u. permitted 223.12 d.u. balance					

Site Inventory Analysis

The consultants used their existing knowledge of the site and additional investigations as part of the site analysis. The land use plan will show schematic locations. However, these facilities would require a greater level of study to determine their applicability and actual design. Investigations of the site's natural features such as topography, vegetation, soils, and climate were included in the analysis. Equally important to this plan was the study of man-made features. Those features were also analyzed, including utilities, roads, previous land uses, and visual features. The relationship of site uses, structures, and circulation were key in evaluating land uses for the site. The information provided guidance for development alternatives and the suitability of the site for the desired development goals.

Concept Development

Following the refinement of the development program and the site analysis contained in this report. The Hayter Firm developed alternative site use scenarios (concepts plans) for the site. These alternatives illustrated the program elements on the site and their relationship to one another. Site use compatibility, circulation, access and control, and visual image issues were

depicted on three concept plans. Those three concepts were revised, reworked, and combined until a single plan was developed.

Site Accommodation Studies

The land use plan was verified by testing the physical requirements of each site use within the land use pattern (concept plan). The evaluation of the four programmed land use categories yielded nine focus sites. The study of the nine focus sites were based on each site's connection to surrounding areas and its contents effect on the site characteristics. By testing each site and its interrelationship with other adjacent land uses, the site use is visualized as an interlocking part of a large scheme. Equally important to this process is a better understanding of the design issues that will be necessary to develop more detailed plans for the sites. The study sketches are provided more to help the reader better visualize the site use and features. They are not explicit of the actual elements possible final design.

Final Plan

The final plan was formulated to illustrate and communicate the goals for the site as a comprehensive multi-use development that compliments and coexists with the existing Warrior Woods residential subdivision. The purpose of the land use plan is to depict the proposed uses of the entire site. The plan identifies uses or activities that are appropriate for the various site conditions defined during this study. These uses have been defined with regard to existing site assets and structures. In a general yet comprehensive nature this land use plan serves as a "road map" for future planning, programming, and budgeting. It is not a plan of implementation for any given area. Its greatest value is to assist in defining the future for the site's land uses.

III. THE PLANNING GOALS

- **Accommodate all requirements for site uses and facilities.**

A key challenge was to provide sufficient space for the designated program elements and the proper relationships between these activities. Along with the immediate needs the site should be able to satisfy future expansion requirements. The development program includes open space, roads, recreation facilities, high density residential and commercial development that all require independent attention and planning within the framework of a unified plan. This involves proper buffering between uses, access control and a strong overall image consistent with the goals of Southern Pines planning department.

- **Provide for orderly and efficient circulation and access.**

The plan should locate all facilities and activities in such a way as to allow for the efficient circulation and access of pedestrian and vehicular movement. To meet the requirements for land use and facilities on the site while protecting the existing resources and the investment of the residents of Warrior Woods, the plan must provide for optimum and efficient use of the site.

- **Protect and enhance environmental conditions.**

The site is surrounded by a significant amount of residential, commercial, and institutional development. The protection of the natural features on the site including the watershed, vegetation and animal life must be a high priority for developing the site. The

plan should attempt to site facilities and activities to best utilize the land with respect for the natural environment.

- **Develop a plan that is practical and able to be implemented.**

To be successful, the plan must include recommendations that are realistic and practical. Funding methods, as well as current budget concerns, must be considered in developing a plan that will be implemented. In addition, the plan should be flexible enough to allow for modifications when requirements, funding, or other factors change.

IV. EXISTING CONDITIONS

This section includes a summary of existing conditions including the existing Warrior Woods subdivision and Camp Easter tract. Information about the existing conditions is illustrated on the following maps.

Existing Natural Conditions

Project Area

The project area is located on the north side of Southern Pines, in southern Moore County, and is characterized by golf courses and residential developments sit in longleaf pines (*Pinus palustris*) forested uplands. Most uplands are either developed or subdivided and awaiting development. The lowlands in the area have either been impounded as lakes or are forested with a mixture of hardwoods and pines.

The project site has two perennial streams that traverse the site. Mill Creek, the largest, and a smaller tributary that feeds into it. Mill Creek has been impounded to form warrior Lake, which is located in the center of the Warrior Woods subdivision. The Mill Creek (Warrior Lake) corridor and the corridors of its tributaries should be taken into consideration for permanent open space and recreational uses.

A significant population of red-cockaded woodpeckers (RCW) occurs in this area. RCWs in Southern Pines and Pinehurst are a critical part of the Sandhills RCW population and are needed for the recovery of that population. Although no cavity trees are mapped on this site, the site is considered to be within the foraging habitat of nearby RCW populations.

Soils and Hydrology

The topography of the property is typical of much of the Sandhills Region and consists of broad sandy ridgetops that slope into a small drainage system. The elevation generally ranges from 312 – 445 feet above sea level.

The soils on the uplands are Candor sand, Vacluse sandy loam, and Ailey loamy sand. Candor sand is found on the ridgetops and is characterized as deep, excessively drained sand. Ailey loamy sand and Vacluse sandy loam are found on the upper and middle slopes and are characterized as a well drained extremely acidic to strongly acidic soil, with low water capacity. The soil in and adjacent to the drainage system consists of

Gilead loamy sand and Bibb fine sandy loam. Gilead sandy loam is characterized as moderately well drained with low permeability and moderate water capacity. Bibb soils are characterized as poorly drained, stratified loamy and sandy alluvial sediments. The productivity of these soils are lowest on the uplands and increase progressively downslope to the branches and stream bottoms.

For the purpose of this analysis site soils have been categorized by their series. The soil type generally responds to the topography. The upland flat areas are Ailey and Candor soils, the slopes have areas of Vaucluse and Gilead soils and lowlands are generally comprised of Bibb soils. These soils are dominantly well drained on the higher plains and side slopes and somewhat poorly drained in the valleys. They have a sandy surface layer and are dominantly loamy to clay subsoil.

The development goals for the site are not limited by the soils with respect to any structural requirements, or vehicular systems. The protection of water quality in shallow water tables and the existing creek will also require good soil, horticultural impervious surface management practices.

Slope Analysis

Slopes have been divided into five categories: flat (0-2%), slight slope (2-5%), moderate slope (5-12%), steep slope (12-25%) and excessive slope (25% +). The slope analysis for the Mill Creek section of the site is shown on the following map.

Using slope can help attain the program goals by matching appropriate uses with suitable activities. Flat areas provide the maximum flexibility for the location of activities including buildings and parking facilities. In most cases flat areas are the most cost effective sites to build on. However steeper slopes add interest to the site and are ideal for delineating preservations areas.

Vehicular and pedestrian movement are the activities most affected by steep slopes. Vehicular movement is most suitable at grades less than 12%, and pedestrians can use slopes as high as 20%. But handicapped users require slopes that don't exceed 8%.

The site has an overall change in elevation in excess of 130 feet. There are points on site that exceed 445 feet elevation and areas where valley bottoms are below 315 feet in elevation. The dramatic changes in elevation provide many opportunities for views and vistas across the site. The topography is very important to the fulfillment of the program goals. The land's character can provide a variety of site uses and experiences for the development and its users.

Vegetation

Existing vegetation falls into categories related to site uses and cultivation practices: pine woodlands, mixed pine/hardwood stands and wetland vegetation. Many of the existing vegetation characteristics are related to the site slopes, soils, and previous site uses and the natural course of events. Plants on the slopes leading to the creek are typical of Sandhill associations with pines on the upper slopes and hardwoods occurring closer to the water course.

A quality Longleaf Pine ecosystem is present on the site. Such an ecosystem can be an important part of the wildlife habitat and public recreation. Areas of the site with Longleaf Pine stands would require management of the existing ground cover and understory plants to maintain the ecosystem within the proposed development.

The existing vegetation is important to the site for buffering outside development and will also assist in fulfilling the buffering requirements of the development program and local code requirements.

Existing Regulatory Conditions

Roads

Two issues associated with the existing roadway configuration of this project were identified during the planning process: The realignment of NC 22 and the layout and quality of existing Warrior Woods roadways. The realignment of NC 22 required that the final plan anticipate the location of the proposed highway and its effect on the proposed entrances to the development. Ongoing coordination with county airport officials, engineering consultants, and Southern Pines Planning officials will be required in order to assure that access points recommended in this plan remain viable.

The second issue is the existing roadway system that serves the Warrior Woods subdivision. The existing roadway system on this site is comprised of asphalt pavement of varying quality. The existing roads of Warrior Woods and Camp Easter were not intended to provide a link between the individual sites. However, the improvements recommended in this plan will require a unified transition between the three existing tracts. The major roads including Warrior Woods Road, Santee Road, and Cherokee Road will require renovation that will improve both the quality and alignment of those roads.

Easements

Three easements affect this site and are associated with the Moore County Airport. Dixie Pipeline and roadway access to Fairway Drive. The Airport Hazard Overlay District and Airport Navigation Easement both limit the height and density and vegetative cover of a 200' wide area adjacent to airport land on the northern property line of the site. The requirements of which can be found in section 175 of the Southern Pines Unified Development Ordinance.

The Dixie Pipeline easement is used to maintain the existing natural gas line that runs from the northern property line of Warrior Woods to its southern boundary. The legal and dimensional requirements associated with the pipeline easement were not included in this level of the planning process, therefore, the layout of those lots transversed by the easement are subject to change based on more detailed information.

The access easement provided by the adjacent property owner to the southeast, maintains access from Cherokee Road to Fairway Drive. It should be noted that the existing width of this easement is in conflict with the required dimensions for public access.

Environmental Regulation

Three perennial streams traverse the site. Mill Creek and two small tributaries cross the site and feed Warrior Lake. These streams are a part of the Little River drainage basin which draws from the northern and eastern portion of Southern Pines. Mill Creek enters the site south of Hunter's Glen and flows northeast through the Warrior Woods and Camp Easter tracts. The two tributaries flow in a southeastern direction on the Mill Creek tract toward Warrior Lake. Visual inspection of the creek and its surroundings reveal a completely undisturbed channel surrounded with heavy vegetation. The stream channels appear to be free of any excessive siltation or major erosion problems. All drainage patterns and storm drainage systems for the development of the site will have a direct effect on the creek and require buffer areas to each side of the stream.

The entire site is located within a WS-III protected watershed. This delineation limits the density of residential development to 2 dwelling units per acre and commercial development to 70% built upon (not to exceed 5% of Southern Pines: jurisdiction within the watershed). The exact requirements of the watershed overlay district can be found on page 103.10 of the Southern Pines UDO.

Zoning

The site falls within four zoning districts and the Highway Corridor Overlay District along NC 22. The Mill Creek tract is currently zoned for General Business, GB and medium density residential, RM – 1. The Warrior Woods tract is zoned low-density residential. RS-3 and the Camp Easter tract falls within a Public/Private Conservation District, PPC. Highway 22 has been designated as a Urban Transition Highway Corridor which activates a series of buffers and setbacks that affect the prorate adjacent to the highway.

In each case the individual zoning district requirements differ in density, lot dimension, and setback distances and permissible uses. It is therefore recommended that the site be developed in accordance with Article 12, Section 188 of the Southern Pines UDO. This would allow for the greatest variety of residential housing opportunities. Permissible uses for S.I.S. (Structurally Integrated Subdivision) and GB districts that could occur on this site are outlined in the following list:

GB – GENERAL BUSINESS

Refer to Exhibit A for permissible GB uses.

RM-1 – MULTI-FAMILY RESIDENTIAL (10-12 du/acre)

Religious Facilities
Planned residential developments
Outdoor Recreation Facilities
Tourist Homes
B & B
All residential types
Major/minor subdivisions

The specific requirements for each district can be found in the Southern Pines UDO on pages 104-108.

EXHIBIT A**MILL CREEK - TABLE OF PERMISSABLE GB-CD USES**

	LBCS CODE	DESCRIPTION
RESIDENCE OR ACCOMMODATION FUNCTIONS	1000	Homes, apartments, housing for the elderly, and hotels
Housing Services	1200	Housing and custodial services for those who cannot care for themselves
Assisted-living board care and adult care group homes	1230	Adult care, group homes, board and care (excludes rehab uses in cond #6520)
Nursing or convalescent home	1250	Nursing homes and convalescent hospitals
Hotels, Motels, or Other Accommodation Services	1300	Lodging and short-term accommodation for travelers
Hotel, motel, tourist home or tourist court	1330	Hotels that do not have gambling services; includes extended-stay hotels
GENERAL SALES OR SERVICES	2000	Comprises the vast majority of establishments associated with commercial land use
Retail Sales or Service and Repair	2100	Establishments with displays of merchandise sold to the general public and other businesses, or after-sales services such as repair
Automobile sales or service establishment	2110	Motor vehicle and parts dealers including repair and maintenance
bicycle sales and repair	2113b	New or used bicycles sales or repair
parts, accessories, or tires	2115	Automotive parts and supply stores, automotive stereo stores, tire and tube shops
gasoline service	2116	Gas stations with or without convenience stores or food marts, includes truck stops
automotive repair and maintenance	2117	Repair garages, body and paint shops, oil change, car wash
Heavy consumer goods sales or service	2120	Heavy or durable goods sales or services
furniture or home furnishings	2121	Furniture, flooring, bedding stores, window treatment
hardware, home center	2122	Home building and repair supplies, lighting supply
lawn and garden supplies	2123	Nursery and garden products predominantly grown elsewhere, outdoor power equipment sales or services
department store, warehouse club, or superstore	2124	Large variety of goods
electronics and appliances	2125	Household-type appliances, tv's, stereos, including repair shops and cell phone stores
Durable consumer goods sales and service	2130	Wide range of product lines such as apparel, appliances, hardware, jewelry, etc.
computer and software	2131	Computers and prepackaged software without other electronic equipment, including repair, support, and training
camera and photographic supplies	2132	Primarily retail cameras and photographic supplies or retail with repair and film developing
clothing, jewelry, luggage, shoes, clocks, sewing	2133	Including shoe repair and tailoring
sporting goods, toy and hobby, and musical instruments	2134	

books, magazines, music, videos, CDs, stationery, greeting cards, seasonal decorations, school and office supplies, etc,	2135	
Consumer goods, other	2140	Establishments that retail merchandise (except groceries or health items) not included in preceding codes
florist	2141	
art dealer, supplies, sales and service	2142	Including frame shops
mail order or direct selling establishment	2144	Retailing other than in stores
antique shop, flea market, thrift stores	2145	
Grocery, food, beverage, dairy	2150	Retail food and beverage merchandise from fixed point-of-sale locations
grocery store, supermarket, or bakery	2151	Included are meat and seafood markets and delicatessens
convenience store	2152	Excludes those with fuel pumps
specialty food store	2153	Retail specialty food items such as coffee and gourmet foods
fruit and vegetable store	2154	
beer, wine, and liquor store	2155	
Health and personal care	2160	Retail health and personal care merchandise from fixed point-of-sale locations
pharmacy or drug store	2161	Primarily retail prescription or nonprescription drugs
cosmetic and beauty supplies and personal grooming products	2162	Primarily retail cosmetics, perfumes, toiletries,
optical and contact lenses	2163	Retail prescription or nonprescription eyeglasses
Finance and Insurance	2200	Use this category when difficult to differentiate an establishment into a subcategory
Bank, credit union, or savings institution	2210	Central banking functions
Credit and finance establishment	2220	Credit card, sales financing, unsecured consumer lending, real estate credit, international trade financing
Investment banking, securities, and brokerages	2230	Securities underwriting, brokering, exchange services, managing portfolios
Insurance-related establishment	2240	Insurance underwriting, selling insurance
Fund, trust, or other financial establishment	2250	Pool assets on behalf of shareholders or beneficiaries
Real Estate, and Rental and Leasing	2300	Rent or lease assets
Real estate services	2310	Lease real estate (except buildings) such as manufactured home sites and vacant lots; includes real estate appraisers
Property management services	2320	Manage real property for others
commercial property-related, mini- or self-storage	2321	Lease buildings not used as residences; includes mini-warehouses and self-storage dwelling units
rental housing-related	2322	Lease buildings used as residences
Rental and leasing	2330	Rent tangible goods such as consumer goods and mechanical equipment to customers; excludes establishment primarily renting equipment with operators
cars	2331	Lease passenger cars without drivers
leasing trucks, trailers, RVs, buses, aircraft, tugboats, etc	2332	Drivers not provided

recreational goods rental	2333	Rent skis, canoes, bicycles, sailboats, motorcycles
leasing commercial, industrial machinery and equipment	2334	Rent or lease office machinery and equipment, heavy equipment used for construction, well drilling, telecommunications, manufacturing, institutional furniture
consumer goods rental	2335	Rent personal and household-type goods and a range of consumer, commercial, and industrial equipment geared toward consumers
intellectual property rental	2336	Establishments that assign patents, trademarks, brand names, and franchise agreements
Business, Professional, Scientific, and Technical	2400	Perform professional, scientific, and technical services
Professional services	2410	Services provided depend on worker skills and knowledge rather than equipment
legal services	2411	Title abstract, lawyers, notaries
accounting, tax, bookkeeping, payroll services	2412	
architectural, engineering, surveying and related services	2413	Architectural, engineering, building inspection, surveying and mapping, and laboratory testing (except medical, veterinary, or auto emission)
graphic, industrial, interior design services	2414	Interior, industrial, and graphic design
consulting services (management, environmental technical)	2415	Advise and assist businesses on management, scientific, and technological issues
scientific research and Development services	2416	Conduct research or analyze in the physical, engineering, cognitive, or life sciences
advertising, media, and photography services	2417	Advertising, public relations, media buying agencies, direct mail advertisers, market research, translation providers
Administrative services	2420	Typical office establishments in any business area. Use as a default category for most office buildings (nursing staffing)
office administrative services	2421	Office administration such as billing, record keeping, personnel, organizational planning
employment agency	2423	Provide employee placement, temporary help
copy center, private mail center, other business support services	2424	Provide document preparation, telephone answering, telemarketing, court reporting, steno typing, FAX, etc.
collection agency	2425	collect payments, compile credit information, repossesses tangible assests
Travel arrangement and reservation services	2430	Promote or sell travel, includes convention and visitors' bureaus
Investigation and security services	2440	Provide detective, guard and patrol services, picking up and delivery of money, selling of security systems, remote monitoring of security systems
Food Services	2500	Prepare meals, snacks, and beverages
Full-service restaurant	2510	Provide services to patrons who order and are served while seated or in combination with takeout
Cafeteria or limited service restaurant	2520	Provide services to patrons who order or select items and pay before eating; may be consumed on premises, taken out, or delivered
drive-through restaurants	2521	Provides drive-in, drive-through or drive-up service to patrons; includes most fast-food restaurants

Snack or nonalcoholic bar	2530	Prepare and serve specialty snacks, such as ice cream, frozen yogurt, cookies, coffee, juices for consumption on or near the premises, snowball stand
Bar or drinking place	2540	Bars, taverns, nightclubs, primarily serving alcoholic beverages; may provide limited food and entertainment
Mobile food services	2550	Prepare and serve meals and snacks for immediate consumption from motorized vehicles
Caterer	2560	Provide single event-based food services, including banquet halls with catering for wedding receptions, etc.
Personal Services	2600	Catch-all category for personal service establishments not classified elsewhere such as bail bonding, wedding planning, psychic services, etc.
Personal care	2610	Hair, nail, and skin care and related personal care
hair, nail, and cosmetic skin care	2611	Barber or beauty shop
dieting and weight reducing	2612	
tanning salon	2614	
electrolysis, ear piercing, and other personal care services	2616	
Dry cleaning and laundry	2620	
dry cleaning and laundry	2622	
linen and uniform supply	2623	
Photofinishing	2630	Primarily engaged in developing film or making slides, etc
Special Services	2650	
massage therapist	2651	
Pet and Animal Sales or Service (except Veterinary)	2700	Retails pets and other animals (except for farming purposes) and pet supplies, grooming, training, and care taking
Pet or pet supply store	2710	Retail pets, pet foods, pet supplies
Animal and pet services and kennels	2720	Boarding, grooming, sitting, and training (except veterinary and horse boarding)
animal services	2721	grooming and training
TRANSPORTATION, COMMUNICATION, INFORMATION, AND UTILITIES	4000	
Courier and messenger services	4160	Provide air, surface, or combined courier delivery services of Parcels and messages
Communications and Information	4200	Produce or distribute information
Publishing	4210	Issue copies of works for which they usually possess copyright
newspapers, books, periodicals, etc.	4211	Publish newspapers, magazines, books, databases, greeting cards, calendars, maps, and similar works
software publisher	4212	Publish and reproduce computer software
Tele-communications and broadcasting	4230	Provide point-to-point communications; if multiple services are shared between the same facilities, use this general category; if separate facilities are maintained for each type of service, then use a specific classification
radio and television broadcasting	4231	Operate broadcasting studios and facilities for over the air or satellite delivery of radio and television programs
cable networks and distribution	4232	Operate studios and facilities or cable systems, direct-to-home satellite systems

wireless telecommunications	4233	Operate, maintain or provide access to facilities for the transmission of voice, data, text, sound, or full motion picture video, cell towers
towers and antennas 50ft tall or less	4233a	
telephone and other wired telecommunications	4234	operate telephone networks
Information services and data processing industries	4240	News syndicates and information data processing services
online information services	4241	Internet access and service providers
library or archive	4242	Provide library or archive services
news syndicate	4243	Supply information such as news reports, articles, pictures and features to the news media
Utilities and Utility Services	4300	Provide utility services such as electric power, gas, water and sewage removal
Electric power	4310	Provide electric power generation, transmission, control, and distribution
service distribution lines	4315	
electric substations	4316	
ARTS, ENTERTAINMENT, AND RECREATION	5000	
Performing Arts or Supporting Establishments	5100	Produce or organize and promote live presentations, excludes nightclubs
Theater, dance or music establishment	5110	Companies, groups, or theaters that produce theatrical presentations, dance, dinner theaters, and live musical entertainment
Agent for management services	5150	Agents representing artists, athletes, entertainers, etc.
Independent artist, writer, or performer	5160	Independent individuals engaged in art, productions
Museums and other special purpose recreational institutions	5200	Public and private museums, historical sites, zoos, and similar establishments
Museum	5210	
Amusement, Sports, or Recreation Establishment	5300	Operate facilities offering activities and provide services
Games arcade establishment	5320	Operate arcades and parlors, except gambling, billiard, or pool
Miniature golf establishment	5340	
Fitness, recreational sports, gym, athletic club, multipurpose facility	5370	Includes archery and shooting ranges, horseback riding, ball parks and courts, fitness clubs, and more
public facilities	5371	
private facilities	5372	
Bowling, billiards, pool	5380	
Skating rink, roller skating	5390	
EDUCATION, PUBLIC ADMINISTRATION, HEALTH CARE, AND OTHER INSTITUTIONS	6000	
Educational Services	6100	Offer teaching and learning
Nursery or preschool	6110	
Grade school	6120	Comprises all public, private, and specialty schools between the preschool and university level
special needs education services	6125	offer specialized services such as for the physically or mentally disabled
Public Administration	6200	All government functions, includes federal, state and local government agencies
Legislative and executive functions	6210	Government and public administrative offices

Other Government Functions	6300	Use this category for government owned establishments not classified elsewhere such as defense and national guard establishments
Public Safety	6400	Government-owned establishments providing fire and rescue, police, and emergency response services
Fire and rescue	6410	
Police	6420	Includes combined police and fire departments
Emergency response	6430	Provide ground or air transportation for medical relief purposes
Health and Human Services	6500	Provide health care, social assistance, and associated services
Ambulatory or outpatient care services	6510	Offer health care services directly to patients without providing inpatient services
clinics and health spas (Ord. # 1601)	6511	Include physician offices, dentists, chiropractors, optometrists, licensed massage therapists, and other licensed or certified health care providers
family planning or outpatient care clinic	6512	Provide outpatient family planning services and outpatient care
medical or diagnostic laboratory	6513	Provide analytic or diagnostic services including medical imaging
Nursing, supervision and other rehabilitative services, except	6520	Provide inpatient nursing and rehabilitative services and can accommodate patients for extended care, includes convalescent homes, nursing homes, inpatient care hospices, alcoholism or drug addiction rehabilitation, mental health Halfway Houses, group homes, and psychiatric convalescent homes
Health care facility	6540	Maximum of 25 beds for overnight care
Social assistance, welfare, and charitable services	6560	Provide social assistance directly to individuals, does not offer residential or accommodation services except for Homeless Shelters
child and youth services	6561	Offer services such as adoption, foster care, drug prevention services
child daycare	6562	Provide care for infants and preschool children, offer pre-kindergarten education programs
services for elderly and disabled	6566	Does not include housing for the elderly
veterans affairs	6567	
vocational rehabilitation	6568	Provide job counseling, job training, and other vocational services
Associations, Non-Profit Organizations, Clubs	6800	Includes grant making, civic, professional, and similar organizations
Labor or political organization	6810	Labor unions, political groups, and political fund-raising groups
Business association or professional membership	6820	Promote the business interests of their members organization or of their profession
Civic, social, or fraternal organization	6830	
CONSTRUCTION-RELATED BUSINESSES	7000	Build or demolish buildings, leveling, earthmoving, excavating, land drainage; should reflect the location of the establishment and not where it is performing its services
Building, developing, and general contracting	7100	Custom builders, general contractors, developers, land Applicants, and construction management firms
Unclassifiable or No Fuction	9900	

Temporary Uses (Ord. # 1601)	9920	Temporary uses specifically authorized in applicable zoning districts by section 5.25 or 5.26
Subdivisions	9930	
major	9931	
minor	9932	
Combination Uses	9940	

VII. FINAL LAND USE PLAN

Final Plan

The Land Use Master Plan for the Mill Creek Development is based on the planning goals stated in section III and described thereafter in this document. The development plan as described in this section consists of syntheses and recommendations for implementing the transformation of the land uses and facilities.

The Land Uses

The purpose of the Land Use Master Plan is to depict the proposed uses of the sites. The plan identifies uses or activities that are appropriate for the various conditions and the desired development of that land. The land uses shown on the final plan include all of the planning goals and development objectives, and the existing land forms (i.e. topography, soils, drainage, and vegetation patterns).

The proposed land uses of this site fall into four distinct yet inter-related categories that comprise the development goals and objectives. The Final Plan illustrates these major land uses.

Commercial Development Area

Approximately 37.16 acres of the site is to be used for commercial development. This area will include a variety of land uses that are outlined in the program table (page 3). The image and pattern of the development in this area should strive to create a more “traditional” community center than standard strip-commercial developments. This should be achieved by working with developers to create circulation patterns and building locations that reinforce more traditional community development patterns.

Multi-Family Residential Area

Approximately 35 ac of the site is to be used for multi-family residential development of varying density. This land use type occurs on six specific sites ranging from 2.56 ac to 12.86 ac. The program table includes the quantity of the proposed dwelling units that will occur on each of the six sites. The type of structures built on these sites will vary in order to achieve the desired density. Sites 1-3 should be considered higher density (10-12 du/ac), whereas sites 4-6 should be developed at a lower density (6-8 du/ac).

Single Family Residential Areas

Approximately 108.68 ac of the site will be used for single family residential development. The three areas where this development is to occur have 21 existing lots that are owned and/or built upon by individuals other than P.A.R. The Mill Creek tract has 33 lots with an average size of .76 ac each. The Warrior Woods tract should be re-platted to reduce the size of the individual lot. The proposed number of lots would increase from the 56 existing lots to 88 new lots with an average size of .85 ac each. The Camp Easter tract will have 24 lots with an average size of .73 ac.

Conservation & Recreation Area

Approximately 95 acres of the site has been used for open space. This allows for the protection of existing plant and animal communities on the site as well as satisfying the density requirements of the watershed. The majority of this open space is Warrior Lake with smaller areas designated on both the Mill Creek tract and Camp Easter tract.

A planned greenway trail will connect the three tracts together and continue to the Southern Pines greenway system that currently terminates at Reservoir Park to the southwest and connects to the adjacent greenway located on The Carolina property. The trail will connect the Camp Easter tract to the Mill Creek tract by using the existing right-of-way lot easements in the Warrior Woods subdivision. Thereafter, the trails will be located within the larger designated open space areas. Other recreational amenities such as tennis courts and swimming pools should be planned on a site-by-site basis and could occur in both the Mill Creek and Camp Easter designated recreation areas.

VIII. PHASING AND BUDGET

Phasing

The full implementation of this plan will require a significant investment of time and money to fulfill the program goals and objectives. The scope of this plan is too large to complete at one time, so a phasing timeline is required. Phasing the project will allow the existing infrastructure to be used while the remaining property continues to be developed.

The entire site was divided into four phases in order to extend the total project cost over a number of years. The phases are as follows and are shown on the following plan.

Phase I.	Warrior Woods – NW area
Phase II.	Mill Creek Residential tract
Phase III.	Remaining Warrior Woods tract
Phase IV.	Camp Easter tract

The Mill Creek Commercial tract to be developed not in conjunction with residential areas and will be dependent on negotiations with a third-party developer.

Budget

The following budget numbers are based on a level of detail and information customarily used for master plan projects. This plan also incorporates numbers generated from recent similar developments in the area. As detailed and specific as these numbers are they should be considered preliminary. Specific plans for each element would determine more accurate cost projections. It is recommended that the design for any given element or phase be completed prior to the budget period in which it will be included. This approach will yield better cost estimates and easier implementation.

The following estimates are all based on linear foot measurements and are turn-key (i.e. they include grading, storm drainage, erosion control, fire hydrants, valves and service taps as well as standard road section materials). A preliminary sanitary sewer routing plan is needed to attach any unit cost to the improvements of that system and is therefore not included in these estimates.

Streets (24' w/2" 1-2 asphalt + 8" abc base)	\$ 73.00/lf
Asphalt wedge curb (both sides included)	\$ 6.00/lf
18" Concrete curb & gutter (both sides included)	\$ 24.00/lf
Resurfacing (1" 1-2 asphalt)*	\$ 34.00/lf
*includes \$ for regrading where needed)	
Water services (6" pvc + fire hydrants/lf + service connections)	\$ 33.50/lf

Phasing Budget

Phase 1 – Mill Creek Residential tract

1. Roads – 4,500 lf @ \$97/lf	\$437,000.
2. Water Service – 3,400 lf @ \$33.50/lf	\$303,000.
3. Entrance Boulevard – 2,500 lf @ \$121/lf	<u>\$114,000.</u>
	\$854,000

Phase 2 – Warrior Woods tract

1. Roads (resurfaced) – 11.146 lf @ \$19/lf	\$212,000.
2. Roads (new) – 1,085 lf @ \$79/lf	<u>\$ 86,000.</u>
3. Water Service – pending ex. System inspection	N/A
	\$298,000

Phase 3 – Mill Creek Commercial tract

1. Roads – 2,055 lf @ \$97/lf	\$200,000.
2. Water Service – 3,400 lf @ \$33.50/lf	<u>\$ 69,000.</u>
	\$269,000

Phase 4 – Camp Easter tract

1. Roads – 5,055 lf @ \$97/lf	\$491,000.
2. Water Service – 5,055 lf @ \$33.50/lf	<u>\$170,000.</u>
	\$661,000

ESTIMATED TOTAL

Roads	\$1,540,000.
Water	<u>\$ 542,000.</u>
	\$2,082,000

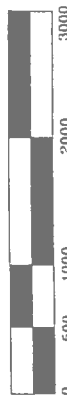
- All estimates include design and construction fees.

MILL CREEK LAND USE MASTER PLAN

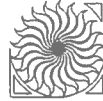
SOUTHERN PINES, NORTH CAROLINA

VICINITY MAP

CAMP EASTER TRACT



SCALE: 1" = 1000'-00"

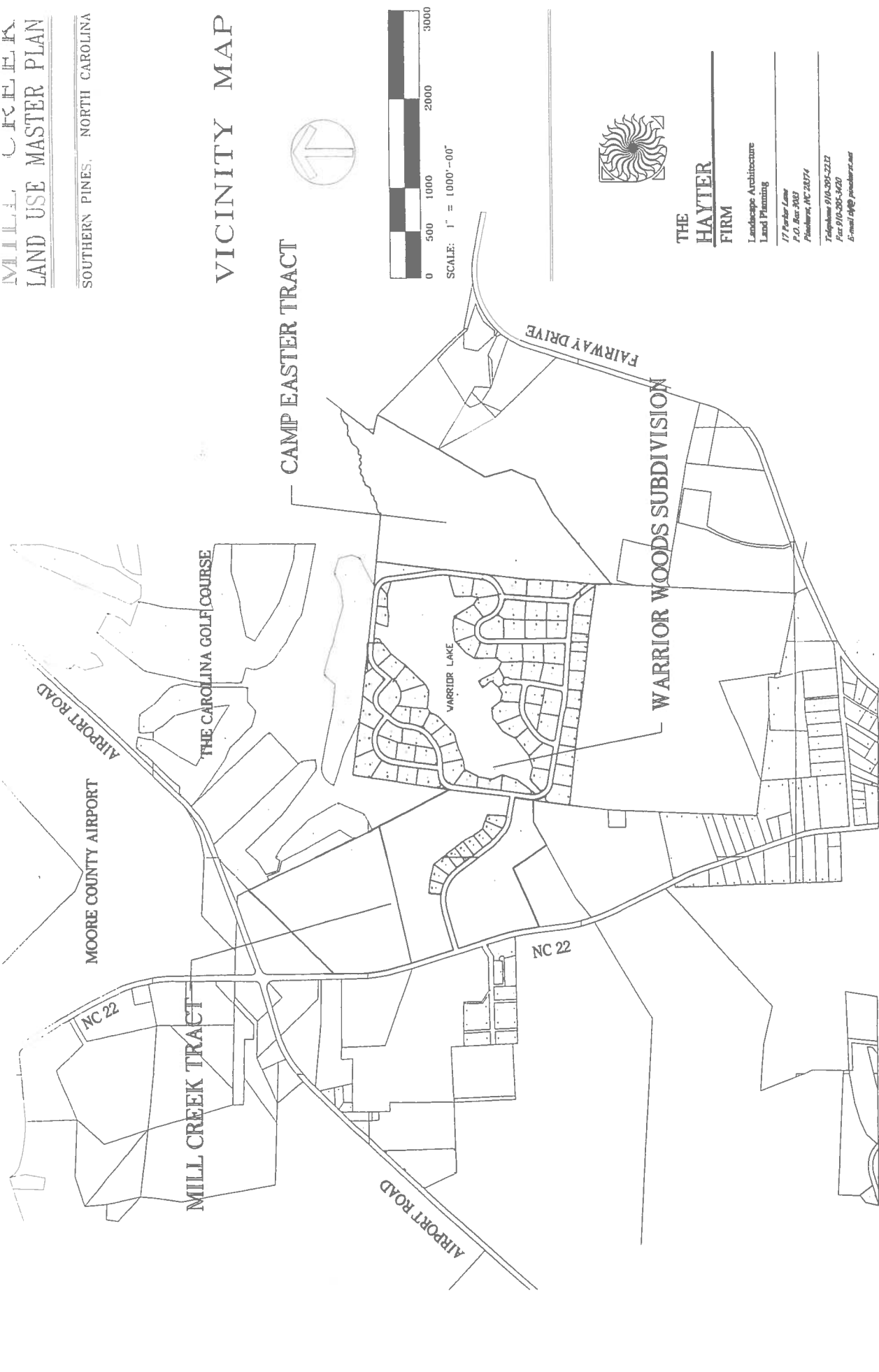


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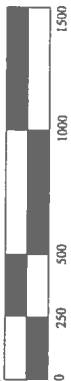
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MILL CREEK LAND USE MASTER PLAN

SOUTHERN PINES, NORTH CAROLINA

EXISTING CONDITIONS



SCALE: 1" = 500'-00"



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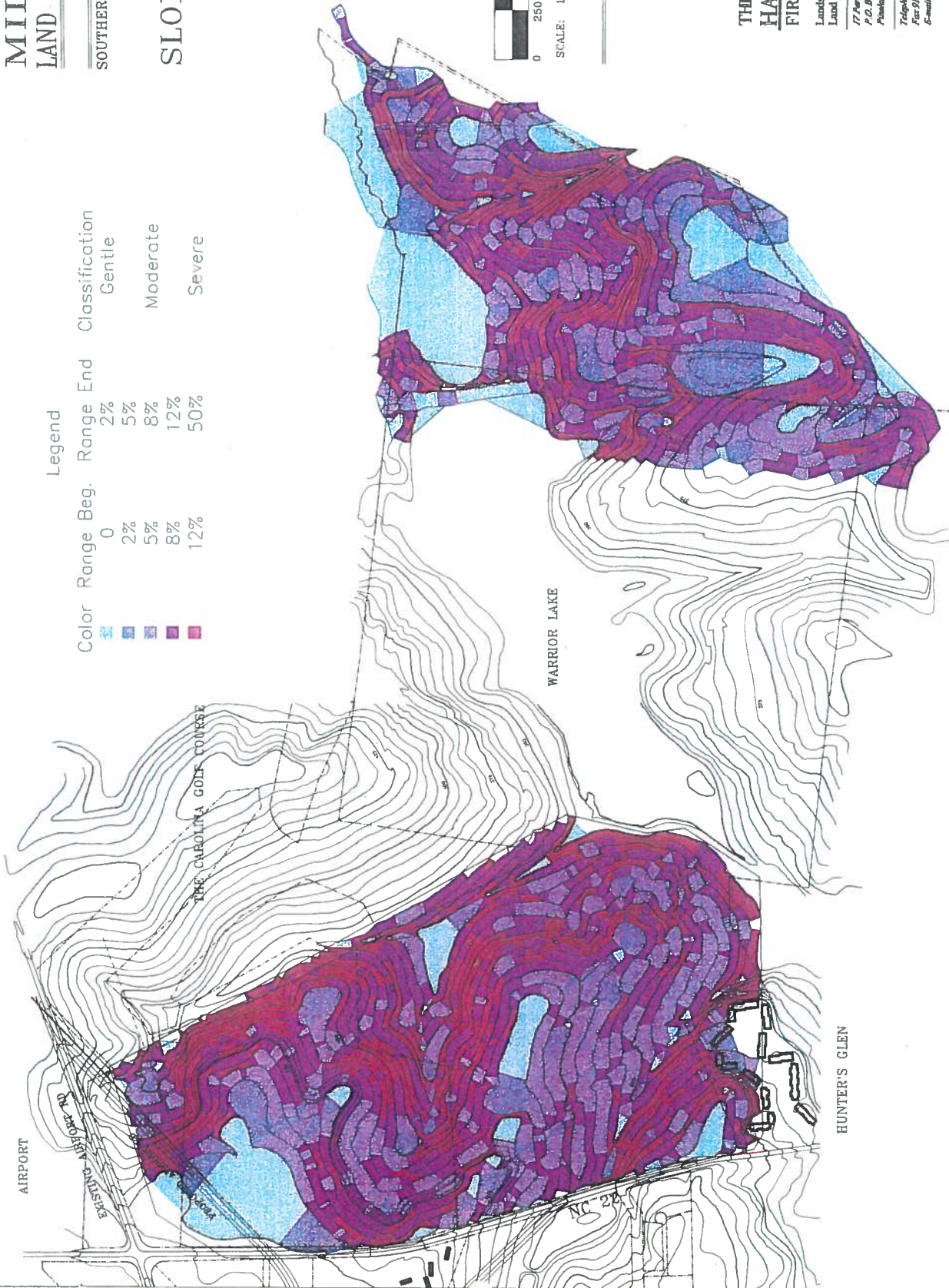
MILL CREEK LAND USE MASTER PLAN

SOUTHERN PINES, NORTH CAROLINA

SLOPE ANALYSIS

Legend

Color	Range Beg.	Range End	Classification
Light Blue	0	2%	Gentle
Medium Blue	2%	5%	
Dark Blue	5%	8%	Moderate
Purple	8%	12%	
Red	12%	50%	Severe



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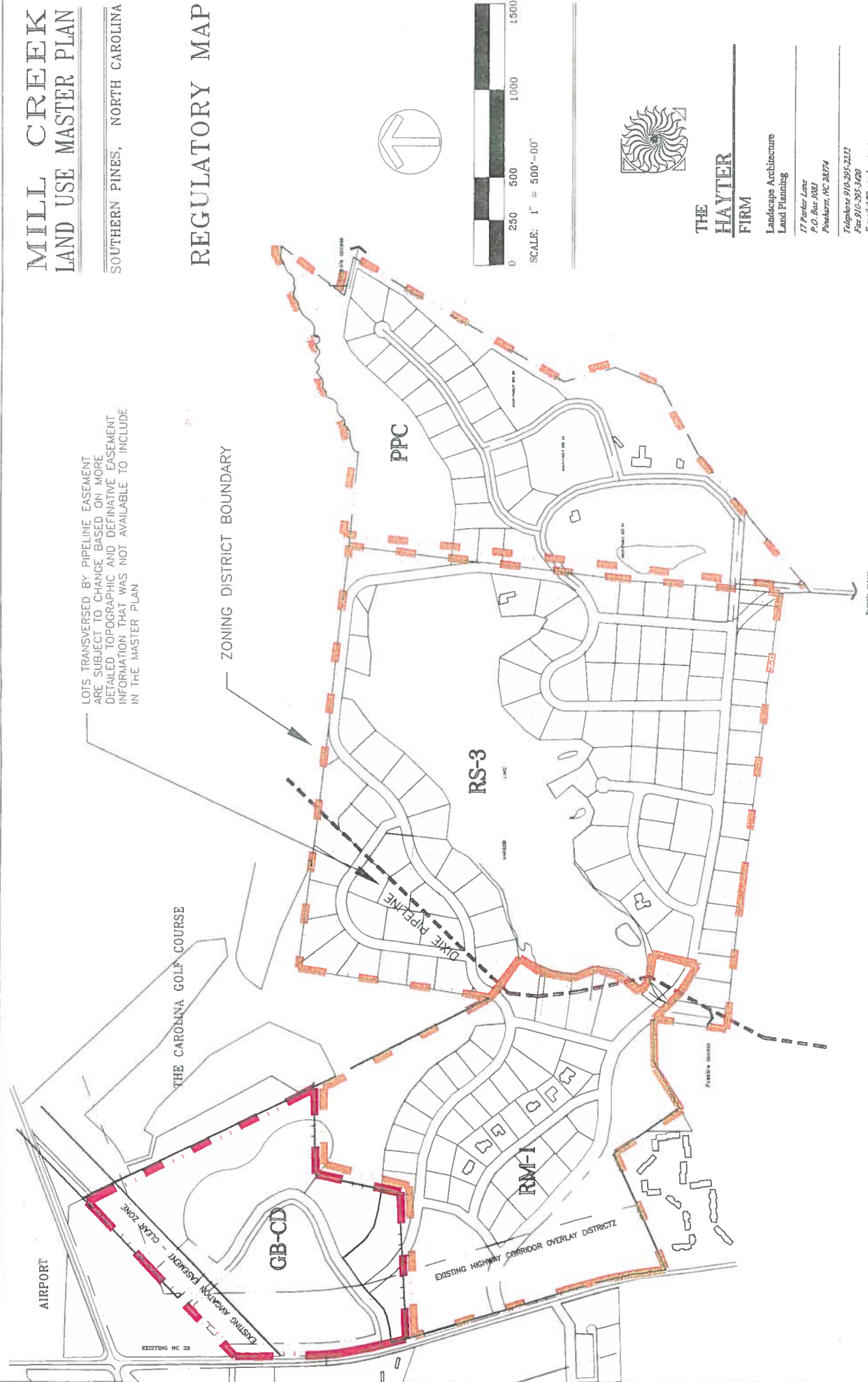
MILL CREEK LAND USE MASTER PLAN

SOUTHERN PINES, NORTH CAROLINA

REGULATORY MAP

LOTS TRANSVERSED BY PIPELINE EASEMENT
ARE SUBJECT TO CHANGE BASED ON MORE
DETAILED TOPOGRAPHIC AND DEFINITIVE EASEMENT
INFORMATION THAT WAS NOT AVAILABLE TO INCLUDE
IN THE MASTER PLAN

ZONING DISTRICT BOUNDARY



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MILL CREEK LAND USE MASTER PLAN

SOUTHERN PINES, NORTH CAROLINA

ILLUSTRATIVE PLAN

SCALE: 1" = 500'-00"
ISSUE DATE: APRIL 28, 1996



THE
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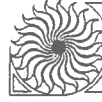
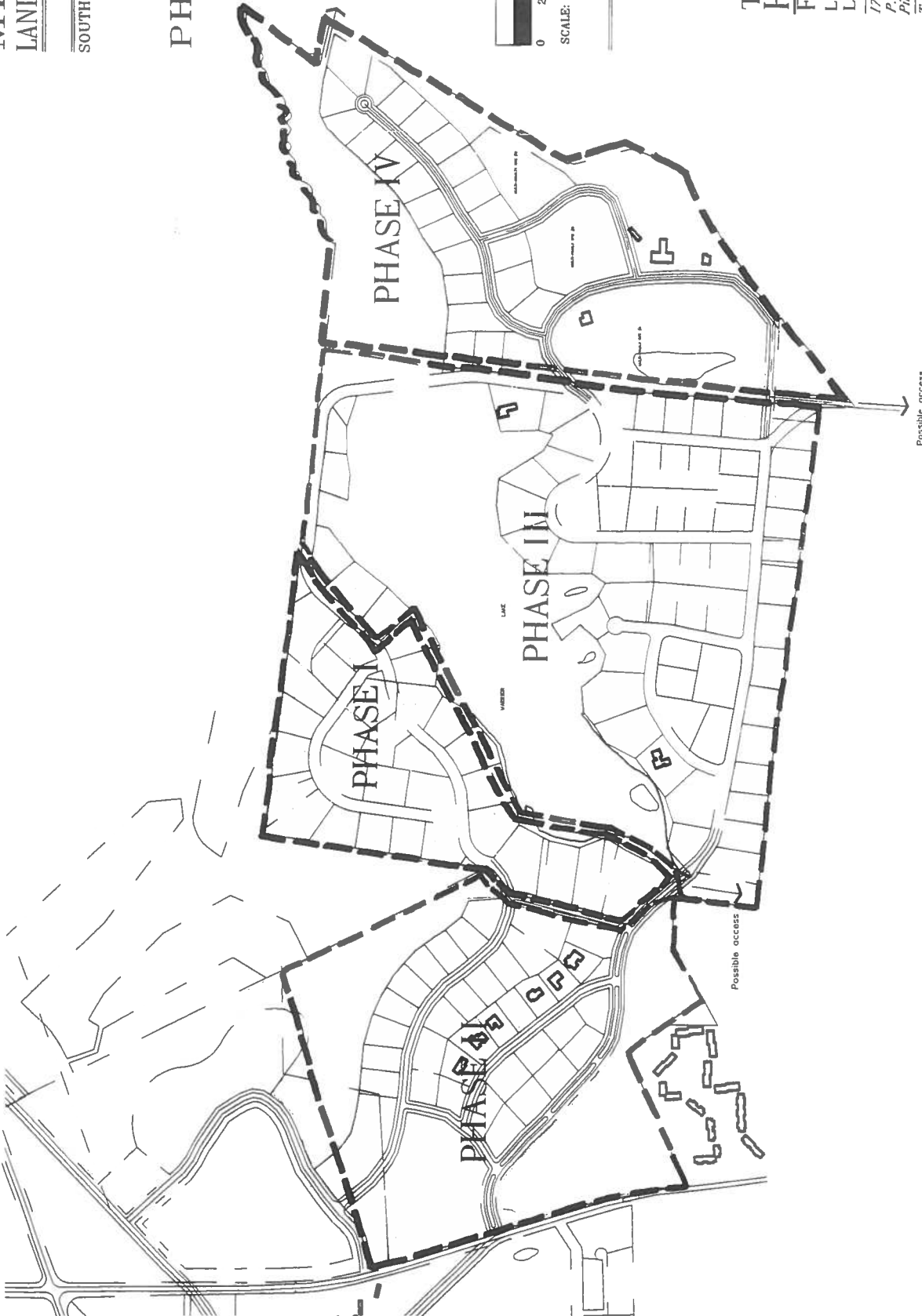
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MILL CREEK LAND USE MASTER PLAN

SOUTHERN PINES, NORTH CAROLINA

PHASING PLAN



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Traffic Impact Analysis

Mill Creek
Southern Pines, NC

Prepared for:
Mill Creek Partners, LLC

Kimley»Horn

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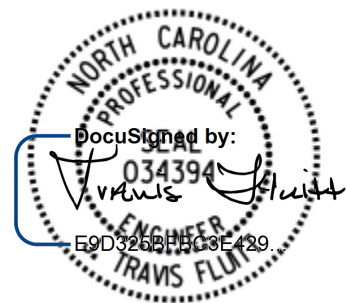
Page 68 of 77

Traffic Impact Analysis for
Mill Creek
Southern Pines, North Carolina

Prepared for:
Mill Creek Partners, LLC
Pinehurst, NC

Prepared by:
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September 2023
016456000



9/1/2023

This document, together with the concepts and designs presented herein, as an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

Executive Summary

Kimley-Horn and Associates, Inc. has performed a Traffic Impact Analysis (TIA) for the proposed expansion of the existing Mill Creek Village shopping center located along Mill Creek Road in Southern Pines, NC. The site currently includes a Harris Teeter grocery store and two retail buildings on the west side of Mill Creek Road and a Harris Teeter fueling center on the east side of Mill Creek Road. As currently envisioned, the development is proposed to add up to 70,417 square feet (SF) of commercial space on the west side of Mill Creek Road and up to 73,139 SF of commercial space on the east side of Mill Creek Road for a total of up to 210,556 SF for the entire development. No additional driveways are proposed on the west side of Mill Creek Road, and while the plans for the development east of Mill Creek Road are only conceptual at this time, access was assumed to be proved by two driveways on Mill Creek Road aligning with driveways to the existing shopping center. Build-out of the development is anticipated within the next 10 years.

This report presents trip generation, distribution, traffic analyses, and recommendations for transportation improvements required to meet anticipated traffic demands in conjunction with the proposed development. The Town of Southern Pines' Unified Development Ordinance (UDO) requires the study of the build-out traffic conditions for both the site build-out and 10-year projections. However, as there is no definitive timeline for the build-out of the development, only the 10-year horizon was analyzed. Therefore, the traffic conditions studied include the existing (2023) and projected (2033) background and build-out traffic conditions for the AM and PM peak hours.

Trip Generation

As shown in [Table ES-1](#), trips for the development west of Mill Creek Road were generated based the difference between the existing square footage and proposed total square footage. The proposed additional development on the west side has the potential to generate approximately 3,718 net new daily trips, 248 net new external trips during the AM peak hour, and 370 net new external trips during the PM peak hour.

Table ES-1 ITE Traffic Generation (Vehicles) – West Side								
Land Use Code	Land Use	Intensity		Daily Total	AM Peak Hour		PM Peak Hour	
					In	Out	In	Out
821	Shopping Plaza w/ Supermarket – Existing	67,000	s.f.	6,570	147	90	304	329
821	Shopping Plaza w/ Supermarket – Existing + Proposed	137,417	s.f.	11,988	301	184	563	610
Difference (Increase due to Proposed)				5,418	154	94	259	281
Pass-By Reduction				1,700	0	0	85	85
Total Net New External Trips				3,718	154	94	174	196

As shown in Table ES-2, the proposed development on the east side of Mill Creek Road has the potential to generate approximately 3,238 net new daily trips, 127 net new external trips during the AM peak hour, and 210 net new external trips during the PM peak hour.

Table ES-2 ITE Traffic Generation (Vehicles) – East Side								
Land Use Code	Land Use	Intensity		Daily Total	AM Peak Hour		PM Peak Hour	
					In	Out	In	Out
821	Shopping Plaza w/o Supermarket	73,139	s.f.	4,938	79	48	186	194
<i>Pass-By Reduction</i>				1,700	0	0	85	85
Total Net New External Trips				3,238	79	48	101	109

Capacity Analysis

Intersection capacity analyses were performed using Synchro/SimTraffic Version 11 software. Table ES-3 summarizes the operation of the overall study intersections for the AM and PM peak hours.

Table ES-3 - Level of Service Summary									
Intersection and Approach/Movement	Traffic Control	Existing (2023) Traffic		Background (2033) Traffic		Build-out (2033) Traffic		Build-out (2033) Traffic - Improved	
		AM	PM	AM	PM	AM	PM	AM	PM
Airport Road at NC 22	Roundabout	B (12.2) v/c - 0.661	C (20.5) v/c - 0.845	D (33.0) v/c - 1.001	F (84.7) v/c - 1.495	E (46.7) v/c - 1.096	F (109.4) v/c - 1.611	E (41.7) v/c - 1.096	F (56.8) v/c - 1.186
Eastbound		B (12.2)	C (20.5)	B (13.4)	E (49.0)	C (15.3)	F (97.4)	C (15.3)	F (97.4)
Westbound		C (17.1)	C (17.4)	F (51.0)	C (16.1)	F (58.7)	C (16.6)	F (57.8)	D (28.8)
Northbound		B (10.0)	D (26.3)	C (23.3)	F (253.2)	E (38.1)	F (304.0)	B (14.5)	F (63.8)
Southbound		B (10.4)	A (7.7)	D (34.4)	B (13.0)	F (59.4)	C (21.2)	F (59.4)	C (24.7)
Airport Road at Mill Creek Road	Unsignalized/ Signalized	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	B (10.4)	B (11.4)
Eastbound		N/A		N/A		N/A		A (4.8)	A (8.8)
Westbound*		A (7.8)	A (8.6)	A (8.1)	A (9.7)	A (8.7)	B (11.2)	B (12.5)	B (13.3)
Northbound		B (13.9)	C (16.2)	C (23.5)	E (39.3)	F (51.3)	F (389.7)	B (15.7)	B (13.3)
NC 22 at Mill Creek Road	Unsignalized/ Signalized	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	A (6.4)	B (12.2)
Westbound		C (19.4)	D (26.0)	D (31.2)	F (57.0)	E (49.8)	F (375.2)	B (19.0)	B (18.8)
Northbound		N/A		N/A		N/A		A (5.6)	A (8.3)
Southbound*		A (8.5)	A (9.0)	A (9.0)	A (9.9)	A (9.2)	B (10.7)	A (5.1)	B (13.9)
NC 22 at Olivetree Lane	Unsignalized/ Signalized	- (-)	- (-)	A (9.0)	A (9.9)	A (9.0)	A (10.0)	A (7.6)	A (7.3)
Eastbound		C (22.0)	D (29.8)	B (13.1)	B (11.9)	B (13.1)	B (12.2)	B (16.6)	B (15.6)
Northbound*		A (9.0)	A (9.1)	A (7.5)	B (10.3)	A (7.5)	B (10.5)	A (5.1)	A (4.9)
Southbound		N/A		A (9.4)	A (8.8)	A (9.4)	A (8.6)	A (7.7)	A (7.2)
NC 22 at Warrior Woods Road	Unsignalized	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)
Westbound		C (16.9)	C (18.5)	D (25.3)	D (27.9)	D (29.3)	D (34.1)	D (29.3)	D (34.1)
Southbound Left		A (8.4)	A (8.8)	A (8.9)	A (9.6)	A (9.1)	A (10.0)	A (9.1)	A (10.0)
Mill Creek Road at West Site Driveway 1/North Fuel Center Driveway	Unsignalized	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)
Eastbound		A (10.0)	B (13.5)	A (10.0)	B (13.5)	B (12.7)	F (54.0)	B (12.7)	F (54.0)
Westbound		A (9.2)	A (10.0)	A (9.2)	A (10.0)	A (10.0)	B (12.5)	A (10.0)	B (12.5)
Northbound Left		A (7.4)	A (7.6)	A (7.4)	A (7.6)	A (7.7)	A (8.3)	A (7.7)	A (8.3)
Southbound Left		A (7.4)	A (7.6)	A (7.4)	A (7.6)	A (7.5)	A (8.1)	A (7.5)	A (8.1)
Mill Creek Road at South Fuel Center Driveway	Unsignalized	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)
Westbound		A (8.6)	A (9.1)	A (8.6)	A (9.1)	A (8.9)	B (10.2)	A (8.9)	B (10.2)
Mill Creek Road at West Site Driveway 2/East Site Driveway 1	Unsignalized	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)
Eastbound		A (8.9)	A (9.6)	A (8.9)	A (9.6)	B (10.3)	C (16.2)	B (10.3)	C (16.2)
Westbound		N/A		N/A		A (9.2)	B (11.0)	A (9.2)	B (11.0)
Northbound Left		A (7.3)	A (7.5)	A (7.3)	A (7.5)	A (7.5)	A (7.7)	A (7.5)	A (7.7)
Southbound Left		N/A		N/A		A (7.3)	A (7.6)	A (7.3)	A (7.6)
Mill Creek Road at West Site Driveway 3/East Site Driveway 2	Unsignalized	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)
Eastbound		A (8.9)	A (8.7)	A (8.9)	A (8.7)	A (9.6)	B (10.8)	A (9.6)	B (10.8)
Westbound		N/A		N/A		A (9.0)	B (10.3)	A (9.0)	B (10.3)
Northbound Left		A (7.3)	A (7.3)	A (7.3)	A (7.3)	A (7.3)	A (7.3)	A (7.3)	A (7.3)
Southbound Left		N/A		N/A		A (7.3)	A (7.5)	A (7.3)	A (7.5)
Mill Creek Road at West Site Driveway 4	Unsignalized	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)
Eastbound		A (8.6)	A (8.7)	A (8.6)	A (8.7)	A (8.7)	A (9.5)	A (8.7)	A (9.5)
Northbound Left		A (7.3)	A (7.4)	A (7.3)	A (7.4)	A (7.4)	A (7.7)	A (7.4)	A (7.7)
Mill Creek at West Site Driveway 5	Unsignalized	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)	- (-)
Eastbound		A (8.7)	A (8.9)	A (8.7)	A (8.9)	A (9.0)	B (10.5)	A (9.0)	B (10.5)
Northbound Left		A (7.3)	A (7.4)	A (7.3)	A (7.4)	A (7.4)	A (7.8)	A (7.4)	A (7.8)

*Major street left-turn movements analyzed in unsignalized scenarios.

Background Improvements

The following improvements are committed to be performed by other developments in the study area and were included in the background and build-out conditions:

NC 22 at Airport Road:

- Provide a right-turn slip lane with 150 feet of storage on westbound Airport Road (*by Caropines*)
- Provide a right-turn slip lane with 150 feet of storage on eastbound Airport Road (*by Southern Pines Retail*)

NC 22 at Olivetree Lane:

- Monitor intersection for traffic signal warrants and install a traffic signal if warranted

A northbound right-turn slip lane on NC 22 at Airport Road is also required with the Caropines development but not until a future phase that is not currently planned. Therefore, it was not assumed to be in place for this analysis.

Recommended Improvements

The following improvements are recommended to be performed as part of the proposed Mill Creek development:

NC 22 at Airport Road:

- Provide a right-turn slip lane with 150 feet of storage on northbound NC 22 if not already provided by others

Airport Road at Mill Creek Road:

- Monitor intersection for traffic signal warrants and install a traffic signal if warranted

NC 22 at Mill Creek Road:

- Monitor intersection for traffic signal warrants and install a traffic signal if warranted

Mill Creek Road at Site Driveways:

- Provide high visibility crosswalks on all driveways on Mill Creek Road
- Provide high visibility crosswalks across Mill Creek Road at the East Site Driveways subject to adequate sight distance requirements being met

With the committed and recommended improvements in place, all of the study intersections are expected to operate acceptably at project build-out except for NC 22 at Airport Road. The NC 22 at Airport Road roundabout is expected to operate at LOS F in the PM peak hour in the background traffic condition without the proposed Mill Creek development. The intersection is expected to operate at LOS E in the AM peak hour and LOS F in the PM peak hour upon build-out of the Mill Creek Development. With the recommended northbound right-turn slip lane, the intersection is still expected to operate at the same LOS, but with significantly lower delays and volume-to-capacity

ratio than in the background PM peak hour traffic condition. No other reasonably constructible improvements were identified to bring the intersection back to an acceptable level of service.

Based on the existing traffic counts there does not appear to be a significant amount of traffic using Mill Creek Road to avoid the roundabout. However, if the roundabout does become as congested as expected by the year 2033, it is anticipated that vehicles currently making the westbound left-turn movement from Airport Road to NC 22 and the northbound right-turn movement from NC 22 to Airport Road may use Mill Creek Road to “cut the corner” and avoid the roundabout, especially if either end of Mill Creek Road is signalized. Analysis indicates that if just 1/3 of the vehicles make the westbound left and northbound right at the roundabout divert to Mill Creek Road, then the intersection is expected to operate the same or better than the background traffic condition.

While Synchro reports long delays on West Site Driveway 1 at Mill Creek Road in the PM peak hour at full build-out, SimTraffic simulations show short delays and no queuing issues at any of the site driveways. Therefore, no improvements are recommended at this intersection.

The committed and recommended roadway laneage is shown on **Figure ES-1**.

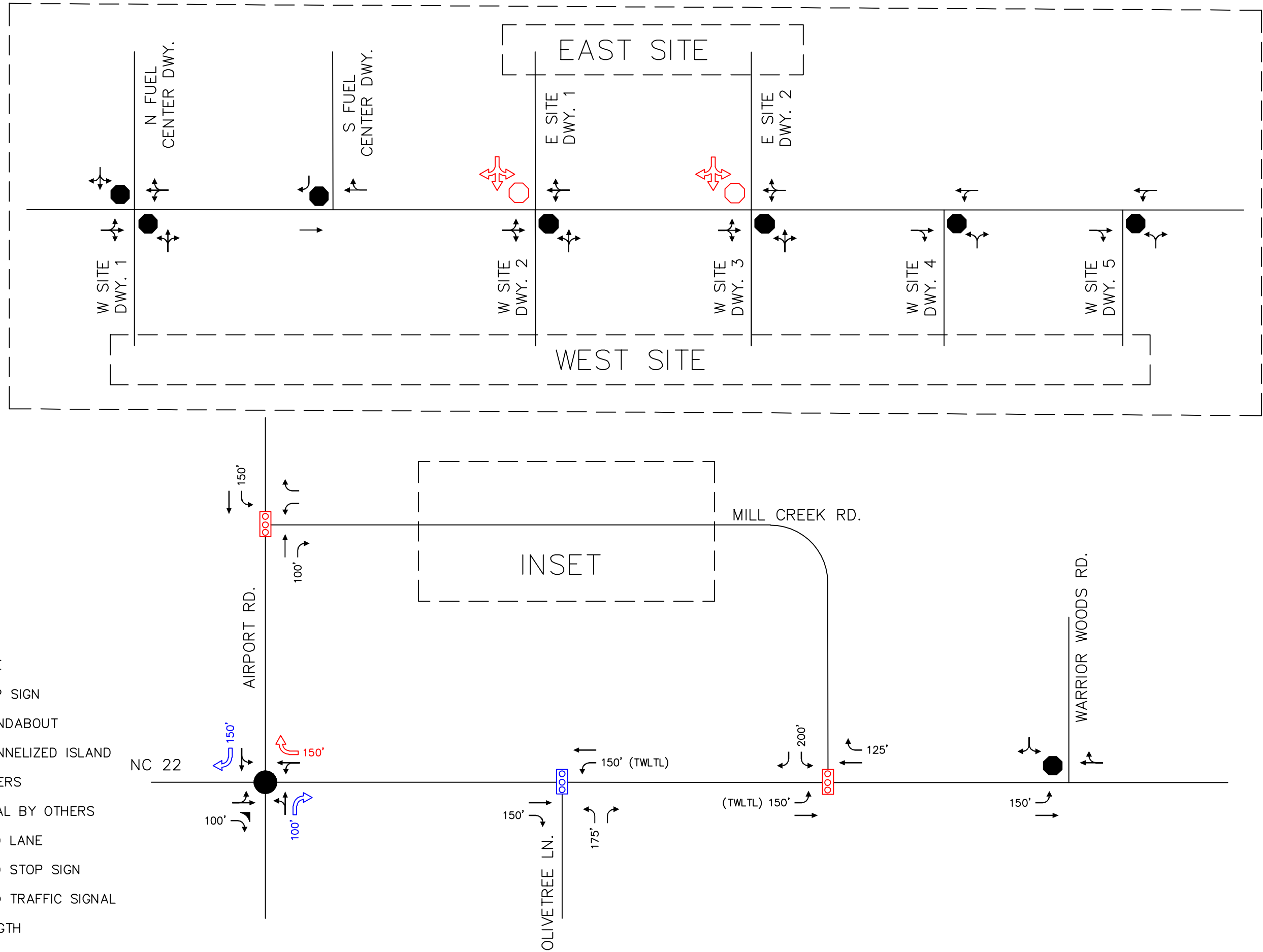
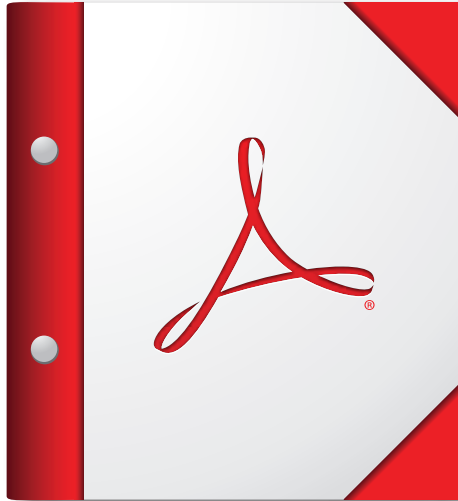


FIGURE
ES-1



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